



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
GENERAL COUNSEL

February 12, 2021

Mr. James Chelmowski

(b) (6) (b) (6) (b) (6)
(b) (6) (b) (6)

Re: Fee category for Freedom of Information Act (FOIA) requests: Clock Stopped for Fees.
Please submit further clarification.

EPA-2021-001511
EPA-2021-001305
EPA-2021-001196
EPA-2021-000819
EPA-HQ-2019-000736

Dear Mr. Chelmowski:

This letter concerns the above-referenced open FOIA requests, received by the U.S. Environmental Protection Agency (EPA or Agency).

Fee Category and Fees

EPA's [FOIA Regulations](#) state the following:

§2.107 Fees.

(a) *In general.* The Agency will charge for processing requests under the FOIA in accordance with paragraph (c) of this section, except where fees are limited under paragraph (d) of this section or where a waiver or reduction of fees is granted under paragraph (l) of this section. Requesters will pay fees by check or money order made payable to the U.S. Environmental Protection Agency.

(b) *Definitions.* For purposes of this section:

(1) Commercial use request means a request from or on behalf of a person who seeks information for a use or purpose that furthers the requester's commercial, trade, or profit interests, which can include furthering those interests through litigation. The Agency will determine, whenever reasonably possible, the use to which a requester will put the

requested records. When it appears that the requester will put the records to a commercial use, either because of the nature of the request itself or because the Agency has reasonable cause to doubt a requester's stated use, the Agency will provide the requester a reasonable opportunity to submit further clarification.

(j) *Advance payments.* (1) For requests other than those described in paragraphs (j)(2) and (3) of this section, the Agency will not require the requester to make an advance payment (that is, a payment made before EPA begins or continues work on a request). Payment owed for work already completed (that is, a prepayment before the Agency sends copies to a requester) is not an advance payment.

(2) When the Agency determines or estimates that a total fee to be charged under this section will be more than \$250.00, it may require the requester to make an advance payment of an amount up to the amount of the entire anticipated fee before beginning to process the request, except when it receives a satisfactory assurance of full payment from a requester that has a history of prompt payment.

I have reviewed each of the currently open requests and many of the past requests that you have submitted to the agency. It appears that EPA has inconsistently charged you processing fees. Based on the information that I was able to obtain from public sources, the National FOIA Office believes that you should be categorized as a commercial requester because you are seeking the information for "a use or purpose that furthers the requester's commercial, trade, or profit interests, which can include furthering those interests through litigation."

My conclusion that you will put the records sought through the above FOIA requests to a commercial use is based on the following information:

1) Your Listed Address is a Business Address

The address associated with your requests, (b) (6) (b) (6) (b) (6) (b) (6) (b) (6) is a commercial building and not a private residence. I cannot ascertain what purpose the address is being used for.

Based on a Google search performed on 1/29/2020, another organization appears to share your address:

(b) (6)
(b) (6) (b) (6) (b) (6) (b) (6)
(b) (6)

However, that telephone number is associated with a Mr. Brian G Doherty who I surmise is the same Brian G. Doherty described here: [https://en.wikipedia.org/wiki/Brian_Doherty_\(politician\)](https://en.wikipedia.org/wiki/Brian_Doherty_(politician))

Mr. Doherty appears to have moved on from this role and the listed number has been disconnected.

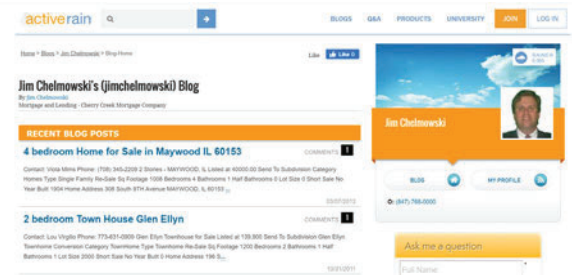
2) The Phone Number at the Heart of Your Litigation Disputes is Affiliated with your Commercial Interests

A Google search revealed that you have a blog available online:

<https://activerain.com/blogs/jimchelmowski>

This blog is associated with you and real estate postings from 2011 but does not appear to be active.

The phone number listed on the blog is: “O: (847) 768-0000.”



Based on publicly available administrative and litigation records including the *Chelmowski v. ATT* Complaint to the FCC, and *James Chelmowski v. AT&T Mobility*, No. 18-1082 (7th Cir. 2019), the (847) 768-0000 vanity phone number listed on your blog seems to be at the heart of a long-standing dispute between you and AT&T that evolved into a dispute with the FCC and now NARA and the EPA. From what I can ascertain, it appears that you wished for this (847) 768-0000 number to forward to (b) (6). In order to obtain documents to support your litigation in furtherance of your commercial objectives, you have been filing Freedom of Information Act Requests. Here is a quote from the Northern District Court of Illinois, also cited by the 7th Circuit:

Having lost his repeated attempts to sue AT&T over the dispute about his cell-phone number, Chelmowski turned to another tactic. He served Freedom of Information Act (“FOIA”) requests on the Federal Communications Commission seeking any documents related to him or his dispute with AT&T. He then filed two lawsuits in the District of Columbia complaining about the government’s FOIA responses and used these suits as vehicles for serving third-party subpoenas on AT&T entities. Litigation over compliance with the subpoenas occurred in the Northern District of Illinois. Judge Sharon Coleman denied Chelmowski’s motion to enforce several of these subpoenas, ruling that he had “not shown any basis in law or in fact for this [c]ourt to allow the request” to “compel discovery from a third-party, AT&T.” (citing Minute Entry, *Chelmowski v. FCC*, No. 1:16-cv-5587 (N.D. Ill. Aug. 24, 2016), ECF No. 24.

James Chelmowski v. AT&T Mobility, No. 18-1082 (7th Cir. 2019) available at:

<https://law.justia.com/cases/federal/appellate-courts/ca7/18-1082/18-1082-2019-01-09.html>

The EPA National FOIA Office believes that all 72 of the FOIA requests and appeals you have submitted to the agency from 2017 to present, seek records to support what the 7th Circuit Court of Appeals characterized as a “never-ending, groundless vendetta over the failed “porting” of your cell-phone number.”

3. You Have Repeatedly Stated that You Need the EPA To Respond to Your EPA FOIA Requests in Order to Prepare Filings in Court for Civil Action No. 17-1394.

I have included several examples of emails that you have sent to EPA stating that your FOIA requests are essentially discovery for your pending litigation in Civil Action No. 17-1394 that is tied to your previous disputes with AT&T related to your cell phone number, as seen below. These examples are by no means an exhaustive list of the communications you have sent to this effect. In Example 1, you essentially say that you need responses to all of your open requests and appeals for purposes of your ongoing litigation against EPA, FCC, and NARA.

Lest there be any doubt that Civil Action No. 17-1394 is tied to the ongoing cell phone number vendetta, EPA-HQ-2017-008255 is one of the requests that is the subject of your litigation, and sought EPA's processing records related to "*Chelmowski v. FCC*, No.16 cv 5587 (N.D. Ill)."

Description See attached file for complete FOIA/PA request I am requesting ALL EPA responsive records pursuant to both FOIA 5 USC 552 and Privacy Act 5 USC 552a regarding me the Requestor James Chelmowski. Search Period: 5/1/16 to 6/9/17
Description of Records Sought: EPA communication records including internal and external emails, phone & meeting logs, notes, correspondence, etc. during the search period related to the requester James Chelmowski (search with all name permutations such as Chelmowski, Mr. Chelmowski, James Chelmowski & Jim Chelmowski, etc.) and including searches on misspellings like the ones NARA used Chelmowsky, Chelmoski and all communications internal and external emails, logs, notes correspondence, etc. related to my EPA FOIA requests EPA-HQ-2016-009708, EPA-HQ-2017-005390 (all abbreviations like EPA-HQ-2016-9708, EPA-HQ-2017-9708) and all communications internal and external emails, logs, notes, correspondence, etc. associated with *Chelmowski v. FCC*, No. 16 c 5587 (N.D. Ill) & May 2016 District Court Subpoena EPA never responded to (see attached). Privacy Act/FOIA search must include internal and external emails, notes, conversation & meeting logs and correspondence databases Including Office of General Counsel (database) and Office of Environmental Information (database); EPA- 22 "Correspondence Management System (CMS)"; EPA-9 "FOIA Requests and Appeal Files" and all non-published email and/or correspondence databases. Plus, any other EPA email systems (including but not limited to the mandate central email system of records which mandated all agencies must implement on or before 12/31/16). Include any request for communications deletions or archives for records regarding me. Must include but not limited to individual emails, notes, logs & correspondence to and from Mark Stilp, Larry Gottesman, Judy Earle, Kevin Minoli, Elise Packard, Justin Schwab, David Fotouhi, Richard Albores, Wendy Schumacher, Judith Lewis and any other EPA staff,.

I have included four examples in the appendix below of your communications stating that your currently open FOIA requests are essentially discovery for your pending litigation in Civil Action No. 17-1394.

Opportunity to Submit Fee Clarification

Per EPA FOIA Regulations, it appears that you “will put the records requested [in each of the requests above] to a commercial use, either because of the nature of the request itself or because the Agency has reasonable cause to doubt your stated use.” Specifically, EPA has reason to believe that you are seeking the information to support litigation related to your commercial interests.

Therefore, the Agency will provide you with a reasonable opportunity to submit further clarification.

Clock Stopped for Fee Category Clarification

Processing on all of the above requests has been stopped and the processing clocks are also stopped until you provide clarification about your fee category for each request. **If you do not provide clarification about your Fee Category within 20 days (or by March 4, 2021), the Agency will change your fee category to “Commercial” for all of the above requests as well as future requests that appear to be commercial in nature.** You will not be assessed fees at the commercial rate for any work that has already been performed, however, you will be assessed fees at the commercial rate for all remaining processing work. For each request, the Agency will provide you with a Fee Estimate at the commercial rate for the remaining work to be completed. The agency will evaluate any new requests you submit on a case-by-case basis for the appropriate fee category.

If you have any questions about the contents of this letter, please contact Denise A. Walker at walker.denise@epa.gov or by phone at (202) 564-6520.

As stated above, you may seek assistance from EPA’s FOIA Public Liaison at hq.foia@epa.gov or call (202) 566-1667. You may also seek assistance from (OGIS). You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001; email: ogis@nara.gov; telephone: (202) 741-5770 or (877)684-6448; or fax: (202) 741-5769.

Sincerely,

/s/ Denise A. Walker
Denise A. Walker, Esq.
Office of General Counsel

APPENDIX A:

Examples of communications stating that your currently open FOIA requests seek records to support your pending litigation in Civil Action No. 17-1394.

Example 1

From: (b) (6) <(b) (6)>
Sent: Wednesday, February 3, 2021 12:19 PM
To: Crawford, Tim <Crawford.Tim@epa.gov>; McGuire, Cathy <McGuire.Cathy@epa.gov>; Roberts, Antonio <Roberts.Antonio@epa.gov>; Sabbagh, Bill <sabbagh.bill@epa.gov>; Sanderson, Bobby <sanderson.bobby@epa.gov>; Kelly, Lee <Kelly.Lee@epa.gov>; McKinney, Robert <mckinney.robert@epa.gov>; Earle, Judy <Earle.Judy@epa.gov>; Green, LindaE <Green.LindaE@epa.gov>; Rementer, Nicole <rementer.nicole@epa.gov>; Albright, Scott <Albright.Scott@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Blair, Shirley <Blair.Shirley@epa.gov>; Bossard, Justin <bossard.justin@epa.gov>; Kaminer, Joan <Kaminer.Joan@epa.gov>; Altendorfer, Ian <Altendorfer.Ian@epa.gov>; Perrin, Michael <Perrin.Michael@epa.gov>; Hill, Kevin <hill.kevin@epa.gov>; Stilp, Mark <Stilp.Mark@epa.gov>; Kerwin, Courtney <Kerwin.Courtney@epa.gov>; Spears, Rasheena <spears.rasheena@epa.gov>; Pickell, Casey <pickell.casey@epa.gov>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>; Nishida, Jane <Nishida.Jane@epa.gov>; Packard, Elise <Packard.Elise@epa.gov>; Christofel, Dave <Christofel.David@epa.gov>; Levine, Scott <Levine.Scott@epa.gov>
Cc: OIP.ComplianceInquiry@usdoj.gov
Subject: RE: Notice of the EPA knowledge of potential Obstructing, negligently concealment, fraudulent concealment, ethic violations, intentional torts, etc. with active DDC 17-cv-1394 which Chelmowski needs to brief with obstructed and concealed knowledge
Importance: High

Dear Robert McKinney, Judy Earle and all EPA staff and attorneys including all EPA involved with any of my FOIA and Privacy Act Requests.

I am still waiting for all my past due FOIA and/or Privacy Act requests and appeals. Please immediately provide all past due requests and dates the EPA will finally comply with their mandatory duties.

Please all recipients confirm receipt in case this needs to be a record of the Court Because the EPA denies receipt of many of my emails. I need all EPA recipients to confirm Read Receipt in case these communications need to go to Court.

EPA and all it's staff are required to perform their mandatory duties by federal law, regulations, directives, policies and procedures.

This email will confirm this Notice to the EPA Attorneys and Staff to Notify Judge James Boasberg of your firsthand knowledge of material facts in the FOIA before this Court being concealed by the EPA, and any attorney ethic violations and/or EPA ethic violations.

As the EPA knows, I needed to request another extension because the EPA is obstructing, and/or negligently concealing, and/or fraudulently concealing these FOIA and/or Privacy Act responsive records.

U.S. District Court

District of Columbia

Notice of Electronic Filing

The following transaction was entered on 2/1/2021 at 1:51 PM EDT and filed on 2/1/2021

Case Name: CHELMOWSKI v. UNITED STATES OF AMERICA

Case Number: [1:17-cv-01394-JEB](#)

Filer:

Document Number: No document attached

Docket Text:

MINUTE ORDER GRANTING Plaintiff's [77] Motion for Extension of Time. The Court ORDERS that: 1) Plaintiff shall file his Opposition and any Cross-Motion for Summary Judgment by February 8, 2021; 2) Defendants shall file their combined Reply and any Opposition by March 8, 2021; and 3) Plaintiff shall file any Reply by April 8, 2021. The Court further ORDERS that Plaintiff's [76] Motion for Extension of Time is DENIED as superseded. So ORDERED by Judge James E. Boasberg on 2/1/2021. (lcjeb1)

Example 2

From: Jim Chelmowski <(b) (6)>
Sent: Thursday, November 19, 2020 11:55 AM
To: McKinney, Robert <mckinney.robert@epa.gov>
Cc: Noga, Vaughn <Noga.Vaughn@EPA.GOV>; O'Donnell, Sean <ODonnell.Sean@epa.gov>; Crawford, Tim <Crawford.Tim@epa.gov>; O'Donnell, Sean <ODonnell.Sean@epa.gov>; McGuire, Cathy <McGuire.Cathy@epa.gov>; Sabbagh, Bill <sabbagh.bill@epa.gov>; Sanderson, Bobby <sanderson.bobby@epa.gov>; Kelly, Lee <Kelly.Lee@epa.gov>; Anouilh, Jeffrey <Anouilh.Jeffrey@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; National Privacy Program <privacy@epa.gov>; Earle, Judy <Earle.Judy@epa.gov>; Epp, Timothy <Epp.Timothy@epa.gov>;

OIP.ComplianceInquiry@usdoj.gov; Criminal.Division@usdoj.gov; ogis@nara.gov

Subject: 4th Request for Immediate EPA Response Required for Legal Author of the EPA 11-16-20 Privacy Act demands for FOIA & Privacy Act Request # EPA-2021-000337 and Who is Legally Responsible for These New EPA Demands

Importance: High

Dear Mr. McKinney and the EPA,

Because of the EPA refusals to provide the names of the Authors of person responsible for legal letters demanding actions from me or I lose my Rights by Federal laws of FOIA and Privacy Act. The EPA is apparently trying to obstruct and conceal material facts I need to brief for my Rights in an active Federal Court case 17-cv-1394. I was forced to file a FOIA request EPA-2021-000954 requesting all EPA Communications manuals, policies, procedures and training to find out what changed since 2018 when the EPA authors of legal letters provided their names and signatures on EPA legal letters and no EPA refuses to do so. See attached.

This is a simple Yes or No answer.

Will the EPA provide the Legal Letter with the written name of the EPA person who is legally responsible for the contents of the EPA legal demands on me the FOIA/Privacy Act requester? Yes or No.

If yes provide the EPA letter with the legal requirements by the EPA with at least the name of the EPA author who is responsible for the legal contents on the letter.

All EPA letter templates and EPA Communications Manuals found state the name of the author is required on the legal letter as a requirement. However it appears EPA states as a legal fact in 2020 the EPA has changed their policy and legal letters no longer need the name of the author of the person legally responsible of the contents and now EPA legal letters can be Anonymously written?

If the EPA states this November 16, 2020 Privacy Act clarification letter has an legal binding provide the letter with the EPA and legal requirements that must include at least the name of the legal author who is legally responsible for the contents. Like EPA Larry Gottesman did in 2017 and 2018.

It appears you and the EPA has EPA policies and procedures stating legal letters don't need to be signed any more. However even if this is true, legal letters MUST have the name of the author on the letter. Then why can't you send the legal letter with the name of the author who is legally responsible for the contents.

Based on the EPA's October and November 2020 responses and repeated refusals of providing legal letters with the name of the EPA staff required for the legal contents of the letter there MUST be some

new EPA Communications policy, procedures and/or manuals which the EPA will need to produce in the new FOIA request EPA-2021-000954. Hopefully, these EPA actions are not obstructing and fraudulently concealing material facts that I need to brief in DDC 17-cv-1394 in FOIA and Privacy Act cases against the EPA, FCC and NARA.

Example 3

From: (b) (6) <(b) (6)>
Sent: Thursday, January 7, 2021 11:37 AM
To: Epp, Timothy <Epp.Timothy@epa.gov>; Rementer, Nicole <rementer.nicole@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; FOIA HQ <FOIA_HQ@epa.gov>
Cc: O'Donnell, Sean <ODonnell.Sean@epa.gov>; OIP.ComplianceInquiry@usdoj.gov
Subject: 3rd Request for Written Official Response to 5 items in FOIA Public Liaison Dispute Mediation for FOIA EPA-21-1196 for \$4,480.50 Fees when Similar one EPA did not demand or require any fees When EPA Did NOT have Declarations Under the Penalty of Perjury
Importance: High

Dear EPA FOIA Headquarters, EPA FOIA Public Liaison Timothy Epp, and Nicole Rementer

Again, all recipients, please confirm receipt of this email. I will also send this through FOIAonline to legally document this email in case you don't confirm this email and cease any and all tolling. Any delay on this FOIA request is because of EPA FOIA Public Liaison refuses to perform their mandatory duties in this Official FOIA Public Liaison Request through omissions, negligence or willful conduct by all involved.

Due to past false statements by the EPA regarding the EPA communication with me, I will only accept written EPA communication and responses.

Why are No response by Timothy Epp is documented in the FOIAonline correspondence demanding phone calls with no legal authority for these EPA demanded phone calls as required by EPA policy and procedures when I repeatedly stated Due to past false statements by the EPA regarding the EPA communication with me, I will only accept written EPA communication and responses?

What is EPA attorney Timothy Epp motive? See below the FOIAonline correspondence log before this email is sent:

EPA-2021-001196 Request Details

Request Details	Correspondence	Financing	Released Records	Appeals
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Submitted

Evaluation

Assignment

Processing

Closed

Correspondence					Collapse
Showing 1 to 7 of 7 entries					
Show 10 entries					
Subject	From	Date	Detail		
FOIA Request EPA-2021-001196 Submitted	System	12/01/2020			+
FOIA Expedited Processing Disposition Reached for EPA-2021-001196	System	12/29/2020			+
Notice of Unusual Circumstances and Denial of Expedited Processing - EPA-2021-001196	Nicole Rementer	12/29/2020			+
Processing Fees Estimate and Request for Assurance of Payment - EPA-2021-001196	Nicole Rementer	12/30/2020			+
Re: Notice of Unusual Circumstances and Denial of Expedited Processing - EPA-2021-001196	Mr. James Chelmowski	12/30/2020			+
Re: Processing Fees Estimate and Request for Assurance of Payment - EPA-2021-001196	Mr. James Chelmowski	01/05/2021			+
Re: Processing Fees Estimate and Request for Assurance of Payment - EPA-2021-001196	Mr. James Chelmowski	01/05/2021			+

Copy to Clipboard

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Previous

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Next

I have not received the written response to any of the 5 items in my Official FOIA Public Liaison Request.

Why will the EPA will not provide the breakdown of the hours required in this outrageous \$4,480.50 fee demand or why the EPA is now defining me as a Commercial requester.

I need WRITTEN FOIA Public Liaison Response to each of the 5 items below by Friday January 8, 2021 at 5pm or it will be legally deemed the EPA, all EPA FOIA Headquarters staff, Nicole Rementer, Chief FOIA officer David Fotouhi, and EPA Public Liaison attorney Timothy Epp are obstructing and/or either negligently or fraudulent concealing these FOIA responsive records. I need to respond to Judge Boasberg on January 14, 2021. Any delays would be deemed Obstruction and/or Concealment of material evidence I need to file my briefs on or before January 14, 2021. See Below:

The following transaction was entered on 1/4/2021 at 3:30 PM EDT and filed on 1/4/2021

Case Name: CHELMOWSKI v. UNITED STATES OF AMERICA

Case Number: [1:17-cv-01394-JEB](#)

Filer:

Document Number: No document attached

Docket Text:

MINUTE ORDER GRANTING Consent [72] Motion for Extension of Time. The Court ORDERS that: 1) Plaintiff shall file his Opposition and any Cross-Motion for Summary Judgment by January 14, 2021; 2) Defendants shall file their combined Reply and any Opposition by February 15, 2021; and 3) Plaintiff shall file any Reply by March 15, 2021. So ORDERED by Judge James E. Boasberg on 1/4/2021. (lcjeb1)

Please again find the attached EPA-2021-001196 1-4-21 FOIA Public Liaison Request for the EPA demanding over \$4,000 in fees with exhibits.

Again, **the only acceptable FOIA Public Liaison Official response is to provide details response of these 5 items in writing.** This is an Official Formal FOIA Public Liaison Request which requires an Official FOIA Public Liaison Response for the following 5 items as soon as possible no later than January 8, 2021, so I can provide these answers to Judge Boasberg because it appears the EPA is obstructing material facts that I need to brief by January 14, 2021. See the following:

- 1) Please provide the estimated hours in this fee estimate for FOIA Request EPA-2021-001196 for each item search and review in the fee estimate.
- 2) Please provide why a similar request for 10.5 months compared to the 31 months would now cost \$4,480.50?
- 3) Provide why the EPA states that I am a Commercial Requester in EPA-2021-001196?
- 4) Please provide why I was not a Commercial Requester for similar Request EPA-HQ-2020-000386
- 5) Why Judge Boasberg should not deem this Fee Estimate as Obstruction of material facts in the DC District Court Case 17-cv-1394?

This will be also sent as a reply on FOIAonline to document this email in case it needs to be presented for evidence if it will legally be deemed after January 8, 2021 that EPA, all EPA FOIA Headquarters staff, Nicole Rementer, Chief FOIA officer David Fotouhi, and EPA Public Liaison attorney Timothy Epp are obstructing and/or either negligently or fraudulent concealing these FOIA responsive records.

Sincerely

James Chelmowski

FOIA Requester

Example 4

From: (b) (6) <(b) (6)>
Sent: Wednesday, January 13, 2021 9:58 AM
To: Levine, Scott <Levine.Scott@epa.gov>; O'Donnell, Sean <ODonnell.Sean@epa.gov>; FOIA HQ <FOIA_HQ@epa.gov>; National Privacy Program <privacy@epa.gov>; Rementer, Nicole <rementer.nicole@epa.gov>
Cc: OIP.ComplianceInquiry@usdoj.gov; Criminal.Division@usdoj.gov
Subject: RE: Now Deemed Obstruction because you would respond with what I NEED Three Items Immediately to Respond to the email with Subject: FOIA EPA-2021-001590: Clarification / Certification of Identity needed
Importance: High

Dear Mr. Levine

EPA-2021-001590 Request Details

Request Details	Correspondence	Financing	Released Records	Appeals
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Correspondence Collapse

Showing 1 to 10 of 10 entries Show 10 entries

Subject	From	Date	Detail
EPA-2021-001590 - Assignment	Ryan Dominguez	12/22/2020	+
FOIA Request EPA-2021-001590 Submitted	System	12/22/2020	+
FOIA EPA-2021-001590: Clarification / Certification of Identity needed	Scott Levine	12/28/2020	+
Re: FOIA EPA-2021-001590: Clarification / Certification of Identity needed	Mr. James Chelmowski	12/30/2020	+
FOIA Expedited Processing Disposition Reached for EPA-2021-001590	System	12/30/2020	+
Expedited Processing Determination - EPA-2021-00001590	Nicole Rementer	12/30/2020	+
Re: Expedited Processing Determination - EPA-2021-00001590	Mr. James Chelmowski	01/04/2021	+
Re: FOIA EPA-2021-001590: Clarification / Certification of Identity needed	Mr. James Chelmowski	01/05/2021	+
Re: FOIA EPA-2021-001590: Clarification / Certification of Identity needed	Mr. James Chelmowski	01/12/2021	+
Re: FOIA EPA-2021-001590: Clarification / Certification of Identity needed	Mr. James Chelmowski	01/13/2021	+

Please explain why are concealing our communications and not putting them in FOIAonline communications, regarding the request of the following three items?

Are you trying to conceal your non-response to the following three items I need to answer your letter from the legal records?

It is documented how many times I requested this FOIAonline correspondence and regular emails. Now it is documented again. I have been requesting this since December 28, 2020 by email and since you repeatedly refuse to provide the response to the 3 items (see this email chain) this 5 times on FOIAonline Correspondence which you also refused.

It is clearly evident now that you and the EPA obstructing and fraudulently concealing the EPA federal records regarding me and not performing you mandatory duties. Probably because these responsive records would impeach your and Timothy Epp declaration statements under the penalty of perjury to the DC District Court.

As you know, if any EPA or Government attorney was not Candor to the Tribunal (District Court and Judge Boasberg) it must be corrected and reported immediately to the Tribunal (District Court and Judge Boasberg). See attach ABA Rules 3.3, 8.3 and 8.4 plus Your Declaration and Timothy Epp Declaration and EPA Statement of Material facts.

See FOIAonline Correspondence

It appears now you are obstructed and/or either negligently or fraudulent conceal these FOIA responsive records which are material facts I needed to brief in the DC District Court 17-cv-1394 Chelmowski v USA, FCC, EPA and NARA. As I emailed you in December of 2020, I can't respond until we have the True EPA Directives, policies, procedures, etc. I need the following THREE Items before December 29, 2020, so I can answer your email and your demands on me.

1. Please under the penalty perjury provide an affidavit or declaration pursuant to 28 USC § 1746 that document you are reference the U.S. Environmental Protection Agency Directive 2190 (Privacy Act Manual) Chapter 3.4 is the current Privacy Act procedures and ALL the Current US EPA Privacy Act Directives, policies, procedures, manuals therefore both the EPA and I will comply with the TRUE requirements.
2. All the Current EPA Privacy Act Directives, policy, procedures, manuals, etc. which I should have received from , Robert McKinney, Chief Information Security Officer & Director, Office of Information Security and Privacy on November 12, 2019.
3. An EPA statement by you pursuant to 28 § 1746, that the EPA and EPA Robert McKinney did not comply with the FOIA laws on or about November 12, 2019 by withholding and concealing the EPA Privacy Act Directives including US EPA Directive 2190 (Privacy Act Manual).

These responsive records are material facts; I need to either confirm or impeach EPA Timothy Epp and Scott Levine's declarations under the penalty of perjury the EPA has presented to Judge Boasberg in October of 2020. The EPA and you know, I need to respond to Judge Boasberg on January 14, 2021. See attached files, including Timothy Epp and Scott Levine Declaration under the penalty of perjury and the EPA statement of material facts relying exclusively on Timothy Epp and Scott Levine Declarations under the penalty of perjury.

See Below Court order from **Judge Boasberg requiring my briefing while the EPA obstructing and/or either negligently or fraudulent concealing these FOIA responsive records which are material facts that would confirm or impeach EPA Timothy Epp and Scott Levine's declarations under the penalty perjury which the EPA and the Courts are relying as Undisputed Material Facts (these court documents are attached) and Court order below:**

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Case Number: [1:17-cv-01394-JEB](#)

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Document Number: No document attached

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Sincerely

James Chelmowski

FOIA Requester



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
GENERAL COUNSEL

February 12, 2021

Mr. James Chelmowski

(b) (6) (b) (6) (b) (6)
(b) (6) (b) (6)

Re: Fee category for Freedom of Information Act (FOIA) requests: Clock Stopped for Fees.
Please submit further clarification.

EPA-2021-001511
EPA-2021-001305
EPA-2021-001196
EPA-2021-000819
EPA-HQ-2019-000736

Dear Mr. Chelmowski:

This letter concerns the above-referenced open FOIA requests, received by the U.S. Environmental Protection Agency (EPA or Agency).

Fee Category and Fees

EPA's [FOIA Regulations](#) state the following:

§2.107 Fees.

(a) *In general.* The Agency will charge for processing requests under the FOIA in accordance with paragraph (c) of this section, except where fees are limited under paragraph (d) of this section or where a waiver or reduction of fees is granted under paragraph (l) of this section. Requesters will pay fees by check or money order made payable to the U.S. Environmental Protection Agency.

(b) *Definitions.* For purposes of this section:

(1) Commercial use request means a request from or on behalf of a person who seeks information for a use or purpose that furthers the requester's commercial, trade, or profit interests, which can include furthering those interests through litigation. The Agency will determine, whenever reasonably possible, the use to which a requester will put the

requested records. When it appears that the requester will put the records to a commercial use, either because of the nature of the request itself or because the Agency has reasonable cause to doubt a requester's stated use, the Agency will provide the requester a reasonable opportunity to submit further clarification.

(j) *Advance payments.* (1) For requests other than those described in paragraphs (j)(2) and (3) of this section, the Agency will not require the requester to make an advance payment (that is, a payment made before EPA begins or continues work on a request). Payment owed for work already completed (that is, a prepayment before the Agency sends copies to a requester) is not an advance payment.

(2) When the Agency determines or estimates that a total fee to be charged under this section will be more than \$250.00, it may require the requester to make an advance payment of an amount up to the amount of the entire anticipated fee before beginning to process the request, except when it receives a satisfactory assurance of full payment from a requester that has a history of prompt payment.

I have reviewed each of the currently open requests and many of the past requests that you have submitted to the agency. It appears that EPA has inconsistently charged you processing fees. Based on the information that I was able to obtain from public sources, the National FOIA Office believes that you should be categorized as a commercial requester because you are seeking the information for "a use or purpose that furthers the requester's commercial, trade, or profit interests, which can include furthering those interests through litigation."

My conclusion that you will put the records sought through the above FOIA requests to a commercial use is based on the following information:

1) Your Listed Address is a Business Address

The address associated with your requests, (b) (6) (b) (6) (b) (6) (b) (6) (b) (6) is a commercial building and not a private residence. I cannot ascertain what purpose the address is being used for.

Based on a Google search performed on 1/29/2020, another organization appears to share your address:

(b) (6)
(b) (6) (b) (6) (b) (6) (b) (6)
(b) (6)

However, that telephone number is associated with a Mr. Brian G Doherty who I surmise is the same Brian G. Doherty described here: [https://en.wikipedia.org/wiki/Brian_Doherty_\(politician\)](https://en.wikipedia.org/wiki/Brian_Doherty_(politician))

Mr. Doherty appears to have moved on from this role and the listed number has been disconnected.

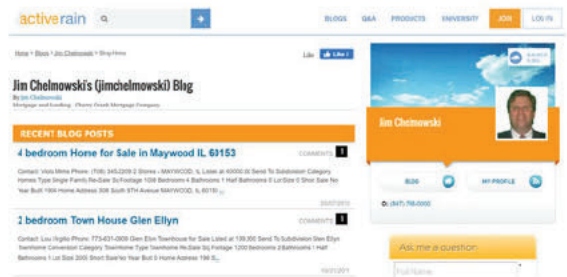
2) The Phone Number at the Heart of Your Litigation Disputes is Affiliated with your Commercial Interests

A Google search revealed that you have a blog available online:

<https://activerain.com/blogs/jimchelmowski>

This blog is associated with you and real estate postings from 2011 but does not appear to be active.

The phone number listed on the blog is: “O: (847) 768-0000.”



Based on publicly available administrative and litigation records including the *Chelmowski v. ATT* Complaint to the FCC, and *James Chelmowski v. AT&T Mobility*, No. 18-1082 (7th Cir. 2019), the (847) 768-0000 vanity phone number listed on your blog seems to be at the heart of a long-standing dispute between you and AT&T that evolved into a dispute with the FCC and now NARA and the EPA. From what I can ascertain, it appears that you wished for this (847) 768-0000 number to forward to (b) (6). In order to obtain documents to support your litigation in furtherance of your commercial objectives, you have been filing Freedom of Information Act Requests. Here is a quote from the Northern District Court of Illinois, also cited by the 7th Circuit:

Having lost his repeated attempts to sue AT&T over the dispute about his cell-phone number, Chelmowski turned to another tactic. He served Freedom of Information Act (“FOIA”) requests on the Federal Communications Commission seeking any documents related to him or his dispute with AT&T. He then filed two lawsuits in the District of Columbia complaining about the government’s FOIA responses and used these suits as vehicles for serving third-party subpoenas on AT&T entities. Litigation over compliance with the subpoenas occurred in the Northern District of Illinois. Judge Sharon Coleman denied Chelmowski’s motion to enforce several of these subpoenas, ruling that he had “not shown any basis in law or in fact for this [c]ourt to allow the request” to “compel discovery from a third-party, AT&T.” (citing *Minute Entry, Chelmowski v. FCC*, No. 1:16-cv-5587 (N.D. Ill. Aug. 24, 2016), ECF No. 24.

James Chelmowski v. AT&T Mobility, No. 18-1082 (7th Cir. 2019) available at:

<https://law.justia.com/cases/federal/appellate-courts/ca7/18-1082/18-1082-2019-01-09.html>

The EPA National FOIA Office believes that all 72 of the FOIA requests and appeals you have submitted to the agency from 2017 to present, seek records to support what the 7th Circuit Court of Appeals characterized as a “never-ending, groundless vendetta over the failed “porting” of your cell-phone number.”

3. You Have Repeatedly Stated that You Need the EPA To Respond to Your EPA FOIA Requests in Order to Prepare Filings in Court for Civil Action No. 17-1394.

I have included several examples of emails that you have sent to EPA stating that your FOIA requests are essentially discovery for your pending litigation in Civil Action No. 17-1394 that is tied to your previous disputes with AT&T related to your cell phone number, as seen below. These examples are by no means an exhaustive list of the communications you have sent to this effect. In Example 1, you essentially say that you need responses to all of your open requests and appeals for purposes of your ongoing litigation against EPA, FCC, and NARA.

Lest there be any doubt that Civil Action No. 17-1394 is tied to the ongoing cell phone number vendetta, EPA-HQ-2017-008255 is one of the requests that is the subject of your litigation, and sought EPA's processing records related to "*Chelmowski v. FCC*, No.16 cv 5587 (N.D. Ill)."

Description See attached file for complete FOIA/PA request I am requesting ALL EPA responsive records pursuant to both FOIA 5 USC 552 and Privacy Act 5 USC 552a regarding me the Requestor James Chelmowski. Search Period: 5/1/16 to 6/9/17
Description of Records Sought: EPA communication records including internal and external emails, phone & meeting logs, notes, correspondence, etc. during the search period related to the requester James Chelmowski (search with all name permutations such as Chelmowski, Mr. Chelmowski, James Chelmowski & Jim Chelmowski, etc.) and including searches on misspellings like the ones NARA used Chelmowsky, Chelmoski and all communications internal and external emails, logs, notes correspondence, etc. related to my EPA FOIA requests EPA-HQ-2016-009708, EPA-HQ-2017-005390 (all abbreviations like EPA-HQ-2016-9708, EPA-HQ-2017-9708) and all communications internal and external emails, logs, notes, correspondence, etc. associated with *Chelmowski v. FCC*, No. 16 c 5587 (N.D. Ill) & May 2016 District Court Subpoena EPA never responded to (see attached). Privacy Act/FOIA search must include internal and external emails, notes, conversation & meeting logs and correspondence databases Including Office of General Counsel (database) and Office of Environmental Information (database); EPA- 22 "Correspondence Management System (CMS)"; EPA-9 "FOIA Requests and Appeal Files" and all non-published email and/or correspondence databases. Plus, any other EPA email systems (including but not limited to the mandate central email system of records which mandated all agencies must implement on or before 12/31/16). Include any request for communications deletions or archives for records regarding me. Must include but not limited to individual emails, notes, logs & correspondence to and from Mark Stilp, Larry Gottesman, Judy Earle, Kevin Minoli, Elise Packard, Justin Schwab, David Fotouhi, Richard Albores, Wendy Schumacher, Judith Lewis and any other EPA staff,.

I have included four examples in the appendix below of your communications stating that your currently open FOIA requests are essentially discovery for your pending litigation in Civil Action No. 17-1394.

Opportunity to Submit Fee Clarification

Per EPA FOIA Regulations, it appears that you “will put the records requested [in each of the requests above] to a commercial use, either because of the nature of the request itself or because the Agency has reasonable cause to doubt your stated use.” Specifically, EPA has reason to believe that you are seeking the information to support litigation related to your commercial interests.

Therefore, the Agency will provide you with a reasonable opportunity to submit further clarification.

Clock Stopped for Fee Category Clarification

Processing on all of the above requests has been stopped and the processing clocks are also stopped until you provide clarification about your fee category for each request. **If you do not provide clarification about your Fee Category within 20 days (or by March 4, 2021), the Agency will change your fee category to “Commercial” for all of the above requests as well as future requests that appear to be commercial in nature.** You will not be assessed fees at the commercial rate for any work that has already been performed, however, you will be assessed fees at the commercial rate for all remaining processing work. For each request, the Agency will provide you with a Fee Estimate at the commercial rate for the remaining work to be completed. The agency will evaluate any new requests you submit on a case-by-case basis for the appropriate fee category.

If you have any questions about the contents of this letter, please contact Denise A. Walker at walker.denise@epa.gov or by phone at (202) 564-6520.

As stated above, you may seek assistance from EPA’s FOIA Public Liaison at hq.foia@epa.gov or call (202) 566-1667. You may also seek assistance from (OGIS). You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001; email: ogis@nara.gov; telephone: (202) 741-5770 or (877)684-6448; or fax: (202) 741-5769.

Sincerely,

/s/ Denise A. Walker
Denise A. Walker, Esq.
Office of General Counsel

APPENDIX A:

Examples of communications stating that your currently open FOIA requests seek records to support your pending litigation in Civil Action No. 17-1394.

Example 1

From: (b) (6) <(b) (6)>
Sent: Wednesday, February 3, 2021 12:19 PM
To: Crawford, Tim <Crawford.Tim@epa.gov>; McGuire, Cathy <McGuire.Cathy@epa.gov>; Roberts, Antonio <Roberts.Antonio@epa.gov>; Sabbagh, Bill <sabbagh.bill@epa.gov>; Sanderson, Bobby <sanderson.bobby@epa.gov>; Kelly, Lee <Kelly.Lee@epa.gov>; McKinney, Robert <mckinney.robert@epa.gov>; Earle, Judy <Earle.Judy@epa.gov>; Green, LindaE <Green.LindaE@epa.gov>; Rementer, Nicole <rementer.nicole@epa.gov>; Albright, Scott <Albright.Scott@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Blair, Shirley <Blair.Shirley@epa.gov>; Bossard, Justin <bossard.justin@epa.gov>; Kaminer, Joan <Kaminer.Joan@epa.gov>; Altendorfer, Ian <Altendorfer.Ian@epa.gov>; Perrin, Michael <Perrin.Michael@epa.gov>; Hill, Kevin <hill.kevin@epa.gov>; Stilp, Mark <Stilp.Mark@epa.gov>; Kerwin, Courtney <Kerwin.Courtney@epa.gov>; Spears, Rasheena <spears.rasheena@epa.gov>; Pickell, Casey <pickell.casey@epa.gov>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>; Nishida, Jane <Nishida.Jane@epa.gov>; Packard, Elise <Packard.Elise@epa.gov>; Christofel, Dave <Christofel.David@epa.gov>; Levine, Scott <Levine.Scott@epa.gov>
Cc: OIP.ComplianceInquiry@usdoj.gov
Subject: RE: Notice of the EPA knowledge of potential Obstructing, negligently concealment, fraudulent concealment, ethic violations, intentional torts, etc. with active DDC 17-cv-1394 which Chelmowski needs to brief with obstructed and concealed knowledge
Importance: High

Dear Robert McKinney, Judy Earle and all EPA staff and attorneys including all EPA involved with any of my FOIA and Privacy Act Requests.

I am still waiting for all my past due FOIA and/or Privacy Act requests and appeals. Please immediately provide all past due requests and dates the EPA will finally comply with their mandatory duties.

Please all recipients confirm receipt in case this needs to be a record of the Court Because the EPA denies receipt of many of my emails. I need all EPA recipients to confirm Read Receipt in case these communications need to go to Court.

EPA and all it's staff are required to perform their mandatory duties by federal law, regulations, directives, policies and procedures.

This email will confirm this Notice to the EPA Attorneys and Staff to Notify Judge James Boasberg of your firsthand knowledge of material facts in the FOIA before this Court being concealed by the EPA, and any attorney ethic violations and/or EPA ethic violations.

As the EPA knows, I needed to request another extension because the EPA is obstructing, and/or negligently concealing, and/or fraudulently concealing these FOIA and/or Privacy Act responsive records.

U.S. District Court

District of Columbia

Notice of Electronic Filing

The following transaction was entered on 2/1/2021 at 1:51 PM EDT and filed on 2/1/2021

Case Name: CHELMOWSKI v. UNITED STATES OF AMERICA

Case Number: [1:17-cv-01394-JEB](#)

Filer:

Document Number: No document attached

Docket Text:

MINUTE ORDER GRANTING Plaintiff's [77] Motion for Extension of Time. The Court ORDERS that: 1) Plaintiff shall file his Opposition and any Cross-Motion for Summary Judgment by February 8, 2021; 2) Defendants shall file their combined Reply and any Opposition by March 8, 2021; and 3) Plaintiff shall file any Reply by April 8, 2021. The Court further ORDERS that Plaintiff's [76] Motion for Extension of Time is DENIED as superseded. So ORDERED by Judge James E. Boasberg on 2/1/2021. (lcjeb1)

Example 2

From: Jim Chelmowski <(b) (6)>
Sent: Thursday, November 19, 2020 11:55 AM
To: McKinney, Robert <mckinney.robert@epa.gov>
Cc: Noga, Vaughn <Noga.Vaughn@EPA.GOV>; O'Donnell, Sean <ODonnell.Sean@epa.gov>; Crawford, Tim <Crawford.Tim@epa.gov>; O'Donnell, Sean <ODonnell.Sean@epa.gov>; McGuire, Cathy <McGuire.Cathy@epa.gov>; Sabbagh, Bill <sabbagh.bill@epa.gov>; Sanderson, Bobby <sanderson.bobby@epa.gov>; Kelly, Lee <Kelly.Lee@epa.gov>; Anouilh, Jeffrey <Anouilh.Jeffrey@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; National Privacy Program <privacy@epa.gov>; Earle, Judy <Earle.Judy@epa.gov>; Epp, Timothy <Epp.Timothy@epa.gov>;

OIP.ComplianceInquiry@usdoj.gov; Criminal.Division@usdoj.gov; ogis@nara.gov

Subject: 4th Request for Immediate EPA Response Required for Legal Author of the EPA 11-16-20 Privacy Act demands for FOIA & Privacy Act Request # EPA-2021-000337 and Who is Legally Responsible for These New EPA Demands

Importance: High

Dear Mr. McKinney and the EPA,

Because of the EPA refusals to provide the names of the Authors of person responsible for legal letters demanding actions from me or I lose my Rights by Federal laws of FOIA and Privacy Act. The EPA is apparently trying to obstruct and conceal material facts I need to brief for my Rights in an active Federal Court case 17-cv-1394. I was forced to file a FOIA request EPA-2021-000954 requesting all EPA Communications manuals, policies, procedures and training to find out what changed since 2018 when the EPA authors of legal letters provided their names and signatures on EPA legal letters and no EPA refuses to do so. See attached.

This is a simple Yes or No answer.

Will the EPA provide the Legal Letter with the written name of the EPA person who is legally responsible for the contents of the EPA legal demands on me the FOIA/Privacy Act requester? Yes or No.

If yes provide the EPA letter with the legal requirements by the EPA with at least the name of the EPA author who is responsible for the legal contents on the letter.

All EPA letter templates and EPA Communications Manuals found state the name of the author is required on the legal letter as a requirement. However it appears EPA states as a legal fact in 2020 the EPA has changed their policy and legal letters no longer need the name of the author of the person legally responsible of the contents and now EPA legal letters can be Anonymously written?

If the EPA states this November 16, 2020 Privacy Act clarification letter has an legal binding provide the letter with the EPA and legal requirements that must include at least the name of the legal author who is legally responsible for the contents. Like EPA Larry Gottesman did in 2017 and 2018.

It appears you and the EPA has EPA policies and procedures stating legal letters don't need to be signed any more. However even if this is true, legal letters MUST have the name of the author on the letter. Then why can't you send the legal letter with the name of the author who is legally responsible for the contents.

Based on the EPA's October and November 2020 responses and repeated refusals of providing legal letters with the name of the EPA staff required for the legal contents of the letter there MUST be some

new EPA Communications policy, procedures and/or manuals which the EPA will need to produce in the new FOIA request EPA-2021-000954. Hopefully, these EPA actions are not obstructing and fraudulently concealing material facts that I need to brief in DDC 17-cv-1394 in FOIA and Privacy Act cases against the EPA, FCC and NARA.

Example 3

From: (b) (6) <(b) (6)>
Sent: Thursday, January 7, 2021 11:37 AM
To: Epp, Timothy <Epp.Timothy@epa.gov>; Rementer, Nicole <rementer.nicole@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; FOIA HQ <FOIA_HQ@epa.gov>
Cc: O'Donnell, Sean <ODonnell.Sean@epa.gov>; OIP.ComplianceInquiry@usdoj.gov
Subject: 3rd Request for Written Official Response to 5 items in FOIA Public Liaison Dispute Mediation for FOIA EPA-21-1196 for \$4,480.50 Fees when Similar one EPA did not demand or require any fees When EPA Did NOT have Declarations Under the Penalty of Perjury
Importance: High

Dear EPA FOIA Headquarters, EPA FOIA Public Liaison Timothy Epp, and Nicole Rementer

Again, all recipients, please confirm receipt of this email. I will also send this through FOIAonline to legally document this email in case you don't confirm this email and cease any and all tolling. Any delay on this FOIA request is because of EPA FOIA Public Liaison refuses to perform their mandatory duties in this Official FOIA Public Liaison Request through omissions, negligence or willful conduct by all involved.

Due to past false statements by the EPA regarding the EPA communication with me, I will only accept written EPA communication and responses.

Why are No response by Timothy Epp is documented in the FOIAonline correspondence demanding phone calls with no legal authority for these EPA demanded phone calls as required by EPA policy and procedures when I repeatedly stated Due to past false statements by the EPA regarding the EPA communication with me, I will only accept written EPA communication and responses?

What is EPA attorney Timothy Epp motive? See below the FOIAonline correspondence log before this email is sent:

EPA-2021-001196 Request Details

Request Details	Correspondence	Financing	Released Records	Appeals
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Submitted

Evaluation

Assignment

Processing

Closed

Correspondence					Collapse
Showing 1 to 7 of 7 entries					
Show 10 entries					
Subject	From	Date	Detail		
FOIA Request EPA-2021-001196 Submitted	System	12/01/2020			+
FOIA Expedited Processing Disposition Reached for EPA-2021-001196	System	12/29/2020			+
Notice of Unusual Circumstances and Denial of Expedited Processing - EPA-2021-001196	Nicole Rementer	12/29/2020			+
Processing Fees Estimate and Request for Assurance of Payment - EPA-2021-001196	Nicole Rementer	12/30/2020			+
Re: Notice of Unusual Circumstances and Denial of Expedited Processing - EPA-2021-001196	Mr. James Chelmowski	12/30/2020			+
Re: Processing Fees Estimate and Request for Assurance of Payment - EPA-2021-001196	Mr. James Chelmowski	01/05/2021			+
Re: Processing Fees Estimate and Request for Assurance of Payment - EPA-2021-001196	Mr. James Chelmowski	01/05/2021			+

Copy to Clipboard

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Previous

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Next

I have not received the written response to any of the 5 items in my Official FOIA Public Liaison Request.

Why will the EPA will not provide the breakdown of the hours required in this outrageous \$4,480.50 fee demand or why the EPA is now defining me as a Commercial requester.

I need WRITTEN FOIA Public Liaison Response to each of the 5 items below by Friday January 8, 2021 at 5pm or it will be legally deemed the EPA, all EPA FOIA Headquarters staff, Nicole Rementer, Chief FOIA officer David Fotouhi, and EPA Public Liaison attorney Timothy Epp are obstructing and/or either negligently or fraudulent concealing these FOIA responsive records. I need to respond to Judge Boasberg on January 14, 2021. Any delays would be deemed Obstruction and/or Concealment of material evidence I need to file my briefs on or before January 14, 2021. See Below:

The following transaction was entered on 1/4/2021 at 3:30 PM EDT and filed on 1/4/2021

Case Name: CHELMOWSKI v. UNITED STATES OF AMERICA

Case Number: [1:17-cv-01394-JEB](#)

Filer:

Document Number: No document attached

Docket Text:

MINUTE ORDER GRANTING Consent [72] Motion for Extension of Time. The Court ORDERS that: 1) Plaintiff shall file his Opposition and any Cross-Motion for Summary Judgment by January 14, 2021; 2) Defendants shall file their combined Reply and any Opposition by February 15, 2021; and 3) Plaintiff shall file any Reply by March 15, 2021. So ORDERED by Judge James E. Boasberg on 1/4/2021. (lcjeb1)

Please again find the attached EPA-2021-001196 1-4-21 FOIA Public Liaison Request for the EPA demanding over \$4,000 in fees with exhibits.

Again, **the only acceptable FOIA Public Liaison Official response is to provide details response of these 5 items in writing.** This is an Official Formal FOIA Public Liaison Request which requires an Official FOIA Public Liaison Response for the following 5 items as soon as possible no later than January 8, 2021, so I can provide these answers to Judge Boasberg because it appears the EPA is obstructing material facts that I need to brief by January 14, 2021. See the following:

- 1) Please provide the estimated hours in this fee estimate for FOIA Request EPA-2021-001196 for each item search and review in the fee estimate.
- 2) Please provide why a similar request for 10.5 months compared to the 31 months would now cost \$4,480.50?
- 3) Provide why the EPA states that I am a Commercial Requester in EPA-2021-001196?
- 4) Please provide why I was not a Commercial Requester for similar Request EPA-HQ-2020-000386
- 5) Why Judge Boasberg should not deem this Fee Estimate as Obstruction of material facts in the DC District Court Case 17-cv-1394?

This will be also sent as a reply on FOIAonline to document this email in case it needs to be presented for evidence if it will legally be deemed after January 8, 2021 that EPA, all EPA FOIA Headquarters staff, Nicole Rementer, Chief FOIA officer David Fotouhi, and EPA Public Liaison attorney Timothy Epp are obstructing and/or either negligently or fraudulent concealing these FOIA responsive records.

Sincerely

James Chelmowski

FOIA Requester

Example 4

From: (b) (6) <(b) (6)>
Sent: Wednesday, January 13, 2021 9:58 AM
To: Levine, Scott <Levine.Scott@epa.gov>; O'Donnell, Sean <ODonnell.Sean@epa.gov>; FOIA HQ <FOIA_HQ@epa.gov>; National Privacy Program <privacy@epa.gov>; Rementer, Nicole <rementer.nicole@epa.gov>
Cc: OIP.ComplianceInquiry@usdoj.gov; Criminal.Division@usdoj.gov
Subject: RE: Now Deemed Obstruction because you would respond with what I NEED Three Items Immediately to Respond to the email with Subject: FOIA EPA-2021-001590: Clarification / Certification of Identity needed
Importance: High

Dear Mr. Levine

EPA-2021-001590 Request Details

Request Details	Correspondence	Financing	Released Records	Appeals
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Correspondence Collapse

Showing 1 to 10 of 10 entries Show 10 entries

Subject	From	Date	Detail
EPA-2021-001590 - Assignment	Ryan Dominguez	12/22/2020	+
FOIA Request EPA-2021-001590 Submitted	System	12/22/2020	+
FOIA EPA-2021-001590: Clarification / Certification of Identity needed	Scott Levine	12/28/2020	+
Re: FOIA EPA-2021-001590: Clarification / Certification of Identity needed	Mr. James Chelmowski	12/30/2020	+
FOIA Expedited Processing Disposition Reached for EPA-2021-001590	System	12/30/2020	+
Expedited Processing Determination - EPA-2021-00001590	Nicole Rementer	12/30/2020	+
Re: Expedited Processing Determination - EPA-2021-00001590	Mr. James Chelmowski	01/04/2021	+
Re: FOIA EPA-2021-001590: Clarification / Certification of Identity needed	Mr. James Chelmowski	01/05/2021	+
Re: FOIA EPA-2021-001590: Clarification / Certification of Identity needed	Mr. James Chelmowski	01/12/2021	+
Re: FOIA EPA-2021-001590: Clarification / Certification of Identity needed	Mr. James Chelmowski	01/13/2021	+

Please explain why are concealing our communications and not putting them in FOIAonline communications, regarding the request of the following three items?

Are you trying to conceal your non-response to the following three items I need to answer your letter from the legal records?

It is documented how many times I requested this FOIAonline correspondence and regular emails. Now it is documented again. I have been requesting this since December 28, 2020 by email and since you repeatedly refuse to provide the response to the 3 items (see this email chain) this 5 times on FOIAonline Correspondence which you also refused.

It is clearly evident now that you and the EPA obstructing and fraudulently concealing the EPA federal records regarding me and not performing you mandatory duties. Probably because these responsive records would impeach your and Timothy Epp declaration statements under the penalty of perjury to the DC District Court.

As you know, if any EPA or Government attorney was not Candor to the Tribunal (District Court and Judge Boasberg) it must be corrected and reported immediately to the Tribunal (District Court and Judge Boasberg). See attach ABA Rules 3.3, 8.3 and 8.4 plus Your Declaration and Timothy Epp Declaration and EPA Statement of Material facts.

See FOIAonline Correspondence

It appears now you are obstructed and/or either negligently or fraudulent conceal these FOIA responsive records which are material facts I needed to brief in the DC District Court 17-cv-1394 Chelmowski v USA, FCC, EPA and NARA. As I emailed you in December of 2020, I can't respond until we have the True EPA Directives, policies, procedures, etc. I need the following THREE Items before December 29, 2020, so I can answer your email and your demands on me.

1. Please under the penalty perjury provide an affidavit or declaration pursuant to 28 USC § 1746 that document you are reference the U.S. Environmental Protection Agency Directive 2190 (Privacy Act Manual) Chapter 3.4 is the current Privacy Act procedures and ALL the Current US EPA Privacy Act Directives, policies, procedures, manuals therefore both the EPA and I will comply with the TRUE requirements.
2. All the Current EPA Privacy Act Directives, policy, procedures, manuals, etc. which I should have received from , Robert McKinney, Chief Information Security Officer & Director, Office of Information Security and Privacy on November 12, 2019.
3. An EPA statement by you pursuant to 28 § 1746, that the EPA and EPA Robert McKinney did not comply with the FOIA laws on or about November 12, 2019 by withholding and concealing the EPA Privacy Act Directives including US EPA Directive 2190 (Privacy Act Manual).

These responsive records are material facts; I need to either confirm or impeach EPA Timothy Epp and Scott Levine's declarations under the penalty of perjury the EPA has presented to Judge Boasberg in October of 2020. The EPA and you know, I need to respond to Judge Boasberg on January 14, 2021. See attached files, including Timothy Epp and Scott Levine Declaration under the penalty of perjury and the EPA statement of material facts relying exclusively on Timothy Epp and Scott Levine Declarations under the penalty of perjury.

See Below Court order from **Judge Boasberg requiring my briefing while the EPA obstructing and/or either negligently or fraudulent concealing these FOIA responsive records which are material facts that would confirm or impeach EPA Timothy Epp and Scott Levine's declarations under the penalty perjury which the EPA and the Courts are relying as Undisputed Material Facts (these court documents are attached) and Court order below:**

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Case Number: [1:17-cv-01394-JEB](#)

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Document Number: No document attached

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Sincerely

James Chelmowski

FOIA Requester

EPA-2021-001511 request Details

Due Date: 02/18/2021 Clock Days: 34Backlogged

Requester Information

Requester	Mr. James Chelmowski	Tracking Number	EPA-2021-001511
Organization		Submitted Date	12/18/2020
Requester Has Account	Yes	Received Date	12/18/2020
Email Address	(b) (6)	Perfected Date	12/21/2020
Phone Number		Last Assigned Date	12/21/2020
Fax Number		Assigned To	Nicole Rementer (OGC National FOIA Office)
Address	(b) (6)	Last Assigned By	Antonio B Roberts (Environmental Protection Agency)
City		Request Track	Complex
State/Province		Fee Limit	\$25.00
Zip Code/Postal Code			

Request Handling

Requester Info Available to the Public	No	Request Type	FOIA
Request Track	Complex	Request Perfected	Yes
Fee Category	Commercial	Perfected Date	12/21/2020
Fee Waiver Requested	No	Acknowledgement Sent Date	
Fee Waiver Status		Unusual Circumstances	Yes
Expedited Processing Requested	Yes	Litigation	No
Expedited Processing Status	Deny	Court Docket Number	
		5 Day Notifications?	No

Description

Long Description

This is both a Privacy Act 5 USC 552a and FOIA Request 5 USC 552. For all Timothy Epp (all email accounts he uses for EPA business) that contained “Chelmowski” (the FOIA and Privacy Act requester’s name) in the subject line, email body, attachment, email metadata from January 1, 2017 and later of the date of this search and December 18, 2020. The emails must include emails that Timothy Epp was the sender, one of the recipients and emails Timothy Epps was copied (cc or bcc) as one of the recipients with the Microsoft Office 365 eDiscovery search and Relativity software certifications and records count. The Search must include the EPA’s FOIA centralized search using the Microsoft Office 365 eDiscovery search terms are of course “Chelmowski” to or from all Timothy Epp’s email address including but not limited to Epp.Timothy@epa.gov. It is public knowledge that the EPA staff uses multiple email accounts for Federal business (i.e. Federal Records), which are not disclosed to the public. See EPA details of the EPA FOIA Searching procedures and requirements for emails in the attached supporting files “1- EPA’s FOIA Procedures”; “2- EPA’s Staff Logs Confirmation of EPA FOIA search procedures using of Microsoft eDiscovery”; “3 – Microsoft Office 365 – eDiscovery”; “4 – Microsoft Office 365 – Search for content”; “5 – Microsoft Office 365 - legal investigation (eDiscovery)”; “6 – EPA FOIA response letter confirming the EPA uses of Microsoft Office 365”; “7 – EPA Policy on Mobile and Portable Devices, and Records” The EPA’s FOIA procedures (1- EPA’s FOIA Procedures”) on page 32 to 34 states the EPA’s procedure for using the Microsoft Office 365 e-discovery for Outlook email, Outlook calendars, & Skype/Lync chats. This EPA’s FOIA procedure includes a link to a document on the EPA server called “<http://intranet.epa.gov/ediscovery/MSOutlookEmailSearch/>”

Has Description Been Modified

Yes

Long Description Modified

This is both a Privacy Act 5 USC 552a and FOIA Request 5 USC 552. For all Timothy Epp (all email accounts he uses for EPA business) that contained "Chelmowski" (the FOIA and Privacy Act requester's name) in the subject line, email body, attachment, email metadata from January 1, 2017 to the later of the date of this search and December 18, 2020. The emails must include emails that Timothy Epp was the sender, one of the recipients and emails Timothy Epps was copied (cc or bcc) as one of the recipients with the Microsoft Office 365 eDiscovery search Certification and Relativity software certifications and records count. The Search must include the EPA's FOIA centralized search using the Microsoft Office 365 eDiscovery search terms are of course "Chelmowski" to or from all Timothy Epp's email address including but not limited to Epp.Timothy@epa.gov. It is public knowledge that the EPA staff uses multiple email accounts for Federal business (i.e. Federal Records), which are not disclosed to the public. See EPA details of the EPA FOIA Searching procedures and requirements for emails in the attached supporting files 1- EPA's FOIA Procedures 2- EPA's Staff Logs Confirmation of EPA FOIA search procedures using of Microsoft eDiscovery 3 – Microsoft Office 365 – eDiscovery 4 – Microsoft Office 365 – Search for content 5 – Microsoft Office 365 - legal investigation (eDiscovery) 6 – EPA FOIA response letter confirming the EPA uses of Microsoft Office 365 7 – EPA Policy on Mobile and Portable Devices, and Records 8- DOJ Handbook for Agency Annual FOIA Reports DOJ Handbook requirement for Agency include the following: g. FOIA Request .. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., "first-party" requests) ... all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act ...and the agency ... to afford the greatest possible access

Description Available to the Public
Short Description

No

Additional Information

Unusual circumstances Invoked and Due Date Extended Yes

Date Unusual Circumstances Invoked – you MUST go to EXTEND DUE DATE in LEFT-HAND NAVIGATION BAR and COMPLETE FIELDS including ESTIMATED DATE OF COMPLETION 12/21/2020

Records Locations - Identify one or more locations where records may be located Headquarters

Attached Supporting Files

Attachments Available to the Public?
No

Size

Attached File Name	(MB)	File Type
EPA FOIA and Privacy Act Request EPA-2021-001511.pdf	0.0988	Adobe PDF Document
1 - EPA's FOIA Procedures.pdf	5.8304	Adobe PDF Document
2 - EPA's Staff Logs Confirmation of EPA FOIA search procedures using of Microsoft eDiscovery.pdf	0.0876	Adobe PDF Document
3 - Microsoft Office 365 - eDiscovery.pdf	0.1535	Adobe PDF Document
4 - Microsoft Office 365- Search for content.pdf	0.1283	Adobe PDF Document
5 - Microsoft Office 365 - legal investigation (eDiscovery).pdf	0.1452	Adobe PDF Document
6 - EPA FOIA response letter confirming the EPA uses of Microsoft Office 365.pdf	0.4382	Adobe PDF Document
7 - EPA Policy on Mobile and Portable Devices and Records.pdf	0.073	Adobe PDF Document
8 - EPA Policy on Forwarding Text Messages to EPA email accounts.pdf	0.2478	Adobe PDF Document
FOIA-Privacy Act Request Search Steps for Timothy Epp emails related to the Requester.pdf	0.2477	Adobe PDF Document
EPA FOIA and Privacy Act Request EPA-2021-001511 revised 12-18-20 at 1100 am.pdf	0.1087	Adobe PDF Document
8 DOJ Handbook for Agency Annual FOIA Reports.pdf	3.3127	Adobe PDF Document
9 - EPA FOIA Annual Report 2018.pdf	1.4868	Adobe

		PDF Document
10 â EPA FOIA Annual Report 2019.pdf	0.7485	Adobe PDF Document
Chelmowski April 15, 2021 response to EPA-2021-001511 Proposed Response and Fee Estimate - REPLY DUE April 20 2021.pdf	0.3298	Adobe PDF Document
EPA-HQ-2021-0001511 Fee Estimate Letter 03312021.pdf	0.2303	Adobe PDF Document
Appeal to EPA for another FOIA-PA request # EPA-HQ-2021-002747 filed 4-15-21 deccsion on all 7 argumetns due 5-13-21.pdf	0.3553	Adobe PDF Document
RE_ Chelmowski resent on April 20, 2021 - RE_ Chelmowski April 15, 2021 response to EPA-2021-001511 Proposed Response and Fee Estimate - REPLY DUE April 20, 2021.pdf	0.8751	Adobe PDF Document

Appeals

Tracking Number	Appeal Date	Appellant	Phase	Notification
EPA-2021-003847	04/16/2021	James Chelmowski	Closed	No
Basis for Appeal	N/A			
Based on Fee Waiver	No			
Based on Expedited Processing	No			

Consultations

Tracking Number	Consulted Agency	Created By	Consultation Date	Due Date	Phase
No consultations have been created.					

Correspondence to Requester

Subject	From	To	Date
Final Disposition, Request EPA-2021-001511	Nicole Rementer	Mr. James Chelmowski	04/21/2021
EPA-2021-001511 has been processed with the following final disposition: Fee-Related Reason.			
Re: EPA-2021-001511 Proposed Response and Fee Estimate - REPLY DUE April 20, 2021	Mr. James Chelmowski	Mr. James Chelmowski	04/15/2021

Sent by email today, will respond within 21 days after the EPA makes it's FOIA Appeal determination on or. before May 13, 2021, for ALL 7 arguments in the appeal for EPA-2021-2747Please confirm receipt of this FOIAonlin correspondence and email by 4-16-21.From: (b) (6) Sent: Thursday, April 15, 2021 11:05 AMTo: 'FOIA HQ' ; 'foia@epa.gov' ; 'privacy@epa.gov' ; 'roberts.antonio@epa.gov' ; 'remitter.nicole@epa.gov' Cc: 'OIP.ComplianceInquiry@usdoj.gov' Subject: Chelmowski April 15, 2021 response to EPA-2021-001511 Proposed Response and Fee Estimate - REPLY DUE April 20, 2021Importance: HighDear EPA, EPA FOIA office and EPA Privacy Act office:Please confirm receipt of this email.Chelmowski will reply to this letter after the EPA provides the EPA Appeal decision EPA-2021-2747 on or before May 13, 2021 for the following arguments.Any closure of this request for FEE DEMANDS prior to Chelmowski having at least 21 days to review the EPA decision of ALL 7 Arguments will be

considered Fraudulently and/or Negligently concealing these responsive records. Please see the attached Appeal filed today on FOIAonline with the following arguments. Argument 1 – The EPA cannot deny Chelmowski's rights to FOIA and Privacy Act because the responsive records could expose corruption in the EPA. The following is from the Department of Justice and the US Supreme Court. The United States Supreme Court has explained that the, "basic purpose of FOIA is to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed." The "FOIA is often explained as a means for citizens to know 'what their Government is up to.'" The Supreme Court stressed that "[t]his phrase should not be dismissed as a convenient formalism." Rather it, "defines a structural necessity in a real democracy." As President Obama has declared a, "democracy requires accountability, and accountability requires transparency." The FOIA "encourages accountability through transparency." See DOJ website

<https://www.justice.gov/archives/open/foia> Argument 2 – The EPA cannot use Excessive Fees to Discourage Request. Freedom of Information Act Guide, May 2004 states: Estimated fees, though, are not intended to be used to discourage requesters from exercising their access rights under the FOIA. See *Hall v. CIA*, No. 04-0814, 2006 WL 197462, at *3 & n.4 (D.D.C. Jan. 25, 2006) (recognizing that it would be improper for agencies to inflate fees to discourage requests); see also Presidential Memorandum for Heads of Executive Departments and Agencies Concerning the Freedom of Information Act, 74 Fed. Reg. 4683 (Jan. 21, 2009) (directing agencies to "act promptly and in a spirit of cooperation" in responding to FOIA requests). OMB Fee Guidelines, 52 Fed. Reg. at 10,018; see also FOIA Update, Vol. XVI, No. 1, at 1-2 (stressing importance of cost-efficiency to overall process of FOIA administration); cf. Attorney General Ashcroft's FOIA Memorandum, reprinted in FOIA Post (posted 10/15/01) (stressing importance of "efficien[cy]" in government) accord Presidential Memorandum for Heads of Departments and Agencies Regarding the Freedom of Information Act, 29 Weekly Comp. Pres. Doc. 1999 (Oct. 4, 1993), reprinted in FOIA Update, Vol. XIV, No. 3, at 3 ("Federal departments and agencies should handle requests for information in a customer-friendly manner."); see also Attorney General's Memorandum for Heads of All Federal Departments and Agencies Regarding the Freedom of Information Act (Oct. 12, 2001) [hereinafter Attorney General Ashcroft's FOIA Memorandum], reprinted in FOIA Post (posted 10/15/01) (emphasizing that the citizenry has "a strong interest" in "efficient" government functioning) Argument 3 - A requester that uses a cell phone without a home phone number is not a Commercial Requester. There is nothing in the FOIA law stating if a requester uses a cell phone number he/she is considered a Commercial Requester. Argument 4 – The EPA's FOIAonline sign up does not state to provide a home address or what type of address to enter and receive correspondence from the Agency pursuant FOIA and Privacy Act. If the requester does not provide their home address the Agency treats the request as Commercial Requester for First-Party requests regarding himself so the EPA can conceal their federal records which could prove EPA corruption. FOIAonline signup did not request home phone numbers or home addresses. See FOIAonline "Create a Public Account" below from the EPA's FOIAonline instructions nothing states: Argument 5 – The EPA identified Chelmowski occupation was in the Mortgage industry, How are these EPA responsive records are being used commercially in the Mortgage industry to help Chelmowski obtain more mortgages? So the EPA can conceal first-party records in the EPA Privacy Act system of records that would expose EPA corruption. See EPA Denise Walker extremely length virtually unreadable letters. EPA and attorney Walker are trying demand illegal fees to coverup apparent corruption in the EPA. Argument 6 – The EPA must comply OMB Fee Guidelines including using the Privacy Act fee schedule for requests for First-Party Requests. FOIA law and OMB Guidelines The EPA DOES NOT have AUTHORITY to collect search fees on Freedom of Information Act Request about the Request was illegal pursuant to Uniform Freedom of Information Act Fee Schedule and Guidelines, 52 Fed. Reg. 10012, 10014 (Mar. 27, 1987) (OMB Fee Guidelines) "These FOIA fee guidelines rely on that authority to remind agencies that the fee schedule provided herein does not apply to individuals seeking access to their own records which are filed in Privacy Act systems of records. Similarly, the budgetary authorities cited mandate that funds agencies receive for providing FOIA services are to be deposited in the general revenues of the United States rather than individual agency accounts. OMB has made one change to this section and that is to add a reference to the Privacy Act of 1974." "Section 8d. 'All Other Requesters.' OMB has revised this section to explain that the requests of record subjects asking for copies of records about themselves filed in agencies' systems of records must be processed under the Privacy Act's fee schedule" "Moreover, requests from record subjects for records about themselves filed in agencies' systems of records will continue to be treated under the fee provisions of the Privacy Act of 1974 which permit fees only for reproduction." "Privacy Act 5 U.S.C. § 552a(f)(5) establish fees to be charged, if any, to any individual for making copies of his record, excluding the cost of any search for and review of the record." Argument 7 – The EPA repeatedly told the Attorney General and the Department of Justice that the EPA processes it's First-Party requests as both FOIA and Privacy Act to provide the greatest access of records in the EPA definition of FOIA

requests. The EPA Annual Report contains the definition for FOIA Requests in Section III.

Acronyms, Definitions and Exemptions –FOIA Request – a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a "thirdparty" request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., "first-party" requests) when those requesters are not subject to the Privacy Act, such as non U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act "systems of records" or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report. Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.) (emphasis added) From: roberts.antonio@epa.gov Sent: Wednesday, March 31, 2021 1:48 PM To: (b) (6) Cc: hq.foia@epa.gov Subject: EPA-2021-001511 Proposed Response and Fee Estimate - REPLY DUE April 20, 2021 Dear Mr. Chelmowski: Please find the attached letter regarding your FOIA request, EPA-2021-001511. As explained in the letter, you must provide your assurance of payment or request for additional time to consider our fee estimate on or before April 20, 2021. If we do not receive your assurance of payment or request for additional time before April 20, 2021, EPA will administratively close your request. Please contact Denise Walker at walker.denise@epa.gov with your response or questions about your request. Respectfully, EPA National FOIA Office

EPA-2021-001511

Antonio B
Roberts

Mr. James
Chelmowski

12/21/2020

12/21/2020

Mr. James Chelmowski

(b) (6)

(b) (6)

RE: Freedom of Information Act Request - EPA-2021-001511

Hello,

Please see attached assignment letter.

Sincerely,

National FOIA Office
U.S. Environmental Protection Agency

EPA-2021-001511 Initial Response Letter. docx.docx

EPA-2021-001511 Request Closed for Failure to Provide Fee
Assurance

Denise Walker

Mr. James
Chelmowski

04/21/2021

Dear Mr. Chelmowski:

Please see the attached correspondence.

I hope this finds you well.

Happy Earth Day from EPA!

Best,

Denise

EPA-2021-001511 Closure for Failure to Provide Fee Assurance_Chelmowski signed 042121.pdf

Re: EPA-2021-001511 Clock Stopped for Fees. Please submit further clarification

Mr. James Chelmowski

Mr. James Chelmowski

03/02/2021

Dear EPA I have exercised my rights by FOIA federal law 5 USC 552(l) and filed an Official FOIA Public Liaison Request and waiting for the details of exactly what needs to be negotiated or the EPA FOIA Public Liaison response to ALL 6 items by March 4, 2021 in writing. Therefore, the EPA has not Right to close this FOIA and/or Privacy Act request. Sincerely, James Chelmowski See written email correspondence with the EPA and EPA FOIA Public Liaison. From: (b) (6) Sent: Tuesday, March 2, 2021 7:53 AM To: 'Epp, Timothy'; 'foia@fcc.gov'; 'Roberts, Antonio'; 'Walker, Denise'; 'National Privacy Program'; 'Crawford, Tim'; 'Hoffer, Melissa'; 'Nishida, Jane'; 'Packard, Elise' Cc: 'OIP.ComplianceInquiry@usdoj.gov'; 'ogis@nara.gov' Subject: RE: Official FOIA Public Liaison mediation request with 6 items in dispute - These are not FOIA request questions. This is a FOIA Public Liaison Dispute Mediation Request! Importance: High Dear EPA's FOIA Public Liaison Timothy Epp and the EPA's Chief FOIA Officer Melissa Hoffer. This email stops the tolling on all FOIA and Privacy Act requests with the EPA. The EPA must comply with FOIA federal law and my right to FOIA Public Liaison Request on these 6 items. 5 USC 552(l). The EPA Chief FOIA Officer has responsibility of the EPA Public Liaison. Please explain in detail exactly what needs to be negotiated in these 6 items by March 4, 2021. With ALL YOUR QUESTIONS ON EXACTLY WHAT YOU NEED TO NEGOTIATION IN WRITNG. You can easily put exact details of what you want to negotiate in writing of the 6 items unless you do not want a documented history of the TRUE Facts. So, you and the EPA want to provide false statements. I look forward to the details of exactly what needs to be negotiated or the EPA FOIA Public Liaison response to ALL 6 items by March 4, 2021 in writing. As you know and documented on April 25, 2019 that the EPA has my preference of communications through emails not phone calls so communication would be documented in writing. You also sent your April 25, 2019 email to the EPA Administrator Andrew Wheeler and EPA General Counsel & EPA Chief FOIA Officer Matthew Leopold to document this email and my preference as a fact with the EPA. You have that email and is a Federal Record with the EPA. Your April 25, 2019 email to me is an official EPA federal record in the EPA email system and should be also stored in the EPA Privacy Act System of Records EPA-22 Correspondence Management System. You repeatedly demand ONLY phone calls after April 25, 2019. I repeatedly request everything in writing which you repeatedly refuse. Which proves why all communications between the EPA and I MUST BE in writing. Which is documented as fact in the EPA federal record of your April 25, 2019 email to Andrew Wheeler, Matthew Leopold and me. Therefore, in writing. What Exactly needs to be Negotiated? I am not Congress and I have no legal authority to create new Federal Laws. So, I cannot negotiate federal laws with the EPA. I am not the EPA who stated alleged facts to the Department of Justice (DOJ) and Attorney General (AG) on how they processed the EPA first party FOIA requests. 5 USC 552(e). So, I cannot negotiate what the EPA stated as alleged facts to the DOJ and AG with the EPA. Which the EPA repeatedly stated as fact to the DOJ and AG that first-party requesters should be afforded the benefit of both access provisions of the FOIA as well as those of the Privacy Act. Please explain in detail exactly what needs to be negotiated with me in these 6 items. Put ALL YOUR QUESTIONS ON EXACTLY WHAT YOU NEED TO NEGOTIATION IN WRITNG. OFFICIAL FOIA PUBLIC LIAISON DISPUTE MEDIATION BY 5 USC 552 CONSISTS OF THE FOLLOWING 6 (SIX) Items as follows: Provide the federal laws, regulations that give the EPA legal authority of beginning to be categorizing me as a Commercial request on or about December 30, 2020. All six dispute items must be in the FOIA Public Liaison response letter by the EPA. These items are not the FOIA request. These are disputed items in this Official FOIA Public Liaison mediation request. Provide the EPA and FOIA requirements for the phone numbers and mailing address in FOIAonline to obtain EPA records regarding the Requesters to be considered a "Other" or "Commercial" requester. That a cell phone on FOIAonline makes the requester a Commercial requester.

Which are the requesters only phone number cannot used as FOIA phone number. The EPA legal authority of a FOIA requesting the EPA federal records regarding him is considered Commercial Requester. The EPA has legal authority to charge for records regarding the Requester in the EPA Privacy Act System of Records. That a FOIA and Privacy Act Requester is not entitled to the EPA federal records related to him under the FOIA and Privacy Act and the EPA must comply with federal laws, regulations, directives, policies, and procedures to provide these EPA federal records related to him. The EPA does not need to do as the EPA stated to the Department of Justice in their FOIA Annual Report that the EPA defines FOIA requests That first-party requesters should be afforded the benefit of both access provisions of the FOIA as well as those of the Privacy Act. Please explain in detail exactly what needs to be negotiated in these 6 items by March 4, 2021. With ALL YOUR QUESTIONS ON EXACTLY WHAT YOU NEED TO NEGOTIATION IN WRITING. You can easily put exact details of what you want to negotiate in writing of the 6 items unless you do not want a documented history of the TRUE Facts. So, you and the EPA want to provide false statements. I look forward to the details of exactly what needs to be negotiated or the EPA FOIA Public Liaison response to ALL 6 items by March 4, 2021 in writing. Sincerely, James Chelmowski FOIA and Privacy Act Requester

From: Epp, Timothy Sent: Monday, March 1, 2021 10:32 AM To: (b) (6); foia@fcc.gov; Roberts, Antonio; Walker, Denise; National Privacy Program; Crawford, Tim; Hoffer, Melissa; Nishida, Jane; Packard, Elise Cc: OIP.ComplianceInquiry@usdoj.gov; ogis@nara.gov Subject: RE: Official FOIA Public Liaison mediation request with 6 items in dispute - These are not FOIA request questions. This is a FOIA Public Liaison Dispute Mediation Request!

Dear Mr. Chelmowski, Thank you for reaching out to request EPA's FOIA Public Liaison mediation services in connection with your disputes identified in your email copied below. Please provide several times you would be available for a telephone call this week along with your telephone number. If you want, I can have another EPA supervisor talk with you to serve as EPA's Public Liaison on this matter. Please note that the FOIA does not require EPA to answer your questions; it only requires release of records (subject to certain limitations) in response to a proper request under the FOIA. The Public Liaison provisions of the FOIA do not entitle requesters to demand answers to their questions. The Public Liaison service is a dispute resolution service through which we apply interest-based negotiation methods and techniques to attempt to resolve disputes outside of litigation. Because the Public Liaison service is an interest-based negotiation process designed to explore opportunities for mutually agreeable resolution, neither EPA nor you will be bound until agreement is reached. Any agreement reached through the negotiation process would be documented in writing and you will be in full control of whether to agree to the written terms of the agreement. The process of exploring opportunities for consensual resolution does not need to be in writing – indeed, demanding that it be conducted in writing can chill the open and frank communication needed for interest-based negotiation and exploration of potential options for agreement. I look forward to talking with you regarding your interests in an effort to find a mutually agreeable resolution to your concerns.

Timothy R. Epp Associate General Counsel | National FOIA Office U.S. Environmental Protection Agency | Office of General Counsel 1200 Pennsylvania Avenue, N.W. (MC 2310A) Washington, D.C. 20460 | WJCN 7309B Phone (202) 564-2830 | epp.timothy@epa.gov

From: (b) (6) Sent: Monday, March 01, 2021 9:59 AM To: Epp, Timothy; foia@fcc.gov; Roberts, Antonio; Walker, Denise; National Privacy Program; Crawford, Tim; Hoffer, Melissa; Nishida, Jane; Packard, Elise Cc: OIP.ComplianceInquiry@usdoj.gov; ogis@nara.gov Subject: Official FOIA Public Liaison mediation request with 6 items in dispute - These are not FOIA request questions. This is a FOIA Public Liaison Dispute Mediation Request!

Importance: High Dear EPA, EPA's FOIA Public Liaison, and EPA's Chief FOIA Officer. I am not a Commercial requester in fact the EPA confirmed that in at least one FOIA Appeal determination and EPA properly classified me as an "Other" requester. Then beginning on or about December 30, 2020, EPA apparent negligent and/or fraudulent concealment scheme of the EPA federal records regarding me classified me as "Commercial" requester contradicting EPA's Official Appeal determinations that I was an "Other" after EPA reviewed my status in the past. The EPA is using the new classification (beginning on or about December 30, 2020) calling me a "Commercial" requester to conceal the EPA's federal records regarding me and denying my rights by federal laws including FOIA and Privacy Act. This is an Official Public Liaison Dispute Request and requires a signed FOIA Public Liaison response to the 6 items disputed. This is not FOIA request questions. This is a FOIA Public Liaison Dispute Mediation Request!

FOIA and Privacy Act Request EPA-2021-002747 would Confirm Who Created the False and Possibly Forged FOIA Appeal control Number EPA-2021-002054 The EPA would not respond to my emails regarding this False Appeal to change my Factual Appeal # EPA-2021-002012. The EPA created this false Appeal on January 19, 2021 and back dated this to January 15, 2021. It appears this might even be a criminal act of forgery. This so the EPA can conceal the EPA federal records regarding me that I requested on October 16, 2020 through my rights by the federal laws of FOIA and Privacy Act. OFFICIAL FOIA PUBLIC LIAISON DISPUTE MEDIATION BY 5 USC 552 CONSISTS OF THE FOLLOWING 6 (SIX) Items Provide the federal laws, regulations that give the EPA legal authority of

beginning to be categorizing me as a Commercial request on or about December 30, 2020. All six dispute items must be in the FOIA Public Liaison response letter by the EPA. These items are not the FOIA request. These are disputed items in this Official FOIA Public Liaison mediation request. Provide the EPA and FOIA requirements for the phone numbers and mailing address in FOIAonline to obtain EPA records regarding the Requesters to be considered a "Other" or "Commercial" requester. That a cell phone on FOIAonline makes the requester a Commercial requester. Which are the requesters only phone number cannot used as FOIA phone number. The EPA legal authority of a FOIA requesting the EPA federal records regarding him is considered Commercial Requester. The EPA has legal authority to charge for records regarding the Requester in the EPA Privacy Act System of Records. That a FOIA and Privacy Act Requester is not entitled to the EPA federal records related to him under the FOIA and Privacy Act and the EPA must comply with federal laws, regulations, directives, policies, and procedures to provide these EPA federal records related to him. The EPA does not need to do as the EPA stated to the Department of Justice in their FOIA Annual Report that the EPA defines FOIA requests That first-party requesters should be afforded the benefit of both access provisions of the FOIA as well as those of the Privacy Act. FACTS EPA FOIA Annual Reports to the Department of Justice Did the EPA provide false statements to the Department of Justice in their EPA FOIA Annual Report with associated raw data? The EPA stated as facts to the Department of Justice (DOJ) in the EPA FOIA Annual report with associated raw data regarding EPA FOIA request including EPA processed all first-party requesters should be afforded the benefits of both access provisions of the FOIA as well as those of the Privacy Act: FOIA Request - a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a "third-party" request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., "firstparty" requests) when those requesters are not subject to the Privacy Act, such as non-U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act "systems of records" or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report. Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.) Chelmowski has been classified as an "Other" requester NOT "Commercial" from 2016 to about December 29, 2020 The EPA from my first FOIA Request in 2016 until about December 29, 2020 has categorized me as an "Other" FOIA requester. The EPA even reviewed and confirmed my classification as an "Other" requester in at least FOIA Appeal determination. On or about December 30, 2020, the EPA stating I am a "Commercial Requester" when I am filing FOIA and Privacy Act requests for the EPA records regarding me. I have always been categorized as an "Other Requester" since 2016 with the EPA this is clearly a concealment scheme by the EPA to conceal the EPA federal records regarding me. This was Just After the EPA refused to Provide a Clarification Letter with an EPA staff Member's Name on it This was just about a week or two after the EPA refused to provide the October 21, 2020 Clarification letter with an EPA name on it for FOIA/PA EPA-2021-000337. The EPA repeatedly denied providing the name of the person responsible for this letter on the letter. Then on December 17, 2020 EPA denied this Request. My fee category was "Other" for EPA-2021-000337. Now, the EPA wants to conceal these facts from my FOIA and/or Privacy Act requests by not correctly processing and providing the responsive records. So, on December 30, 2020 began outrageous fees and categorizing me as "Commercial" requester trying to obtain the EPA federal records regarding me. Clearly a concealment scheme. In October, November, and/or December 2020, the EPA appears to have decided to not produce responsive records for my FOIA and/or Privacy Act responsive records. FOIAonline signup did not request home phone numbers or home addresses. See FOIAonline "Create a Public Account" below from the EPA's FOIAonline instructions nothing states: James Chelmowski's True Relationship with the EPA The EPA knows the relationship with the EPA and me began in 2015. When I created an account for FOIAonline like tens of thousands other FOIAonline users per my rights as US citizen. I have my federal rights to both the FOIA and Privacy Act Request. Under both laws I have the right to EPA federal records including EPA's Privacy Act System of Records EPA-9 "FOIAonline" and the EPA communications regarding me. My relationship with the EPA is like many thousands of FOIAonline users. Those FOIAonline users and I have their/my rights to the EPA federal records related to them including but not limited to the EPA Privacy Act system of records regarding them. Summary Provide the federal laws, regulations that give the EPA legal authority of beginning to be categorizing me as a Commercial request on or about December 30, 2020. All six dispute items must be in the FOIA Public Liaison response letter by the EPA. These items are not the FOIA request. These are disputed items in this official FOIA Public Liaison mediation request. Provide the EPA and FOIA requirements for the phone

numbers and mailing address in FOIAonline to obtain EPA records regarding the Requesters to be considered a "Other" or "Commercial" requester. That a cell phone on FOIAonline makes the requester a Commercial requester. Which are the requesters only phone number cannot used as FOIA phone number. The EPA legal authority of a FOIA requesting the EPA federal records regarding him is considered Commercial Requester. The EPA has legal authority to charge for records regarding the Requester in the EPA Privacy Act System of Records. That a FOIA and Privacy Act Requester is not entitled to the EPA federal records related to him under the FOIA and Privacy Act and the EPA must comply with federal laws, regulations, directives, policies, and procedures to provide these EPA federal records related to him. The EPA does not need to do as the EPA stated to the Department of Justice in their FOIA Annual Report that the EPA defines FOIA requests That first-party requesters should be afforded the benefit of both access provisions of the FOIA as well as those of the Privacy Act. Please provide response to ALL (6) six items above ASAP. Sincerely James Chelmowski FOIA and Privacy Act Request-----From: roberts.antonio@epa.gov Sent: Wednesday, February 24, 2021 4:31 PM To: (b) (6) Subject: Estimate Cost Notice EPA-2021-002747 We estimate that the cost to find responsive records will be approximately \$65.25. This estimate is based on about 0.50 of Search, and 1.25 of Review. From: foia_hq@epa.gov Sent: Wednesday, February 24, 2021 4:26 PM To: (b) (6) Cc: Buchsbaum.Seth@epa.gov Subject: EPA-2021-002747 Proposed Response and Fee Estimate - Clock Stopped for Assurance of Payment Dear Mr. Chelmowski: I hope this finds you well. Please see the attached correspondence. Best, Denise A. Walker 202-564-6520 EPA National FOIA Office

EPA-2021-001511 Final Commercial Fee Category Assignment Letter to Requester Chelmowski	Denise Walker	Mr. James Chelmowski	03/15/2021
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Dear Mr. Chelmowski,

I hope this finds you well.

Please see the attached correspondence.

Thank you,

Denise A. Walker, Esq.

Final Commercial Fee Category Assignment Letter to Requester Chelmowski 03152021.pdf

Expedited Processing Determination - EPA-2021-00001511	Nicole Rementer	Mr. James Chelmowski	12/30/2020
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The EPA National FOIA Office has made a determination regarding your request for expedited processing of the above-referenced FOIA tracking number. The disposition of your expedited processing request is: Deny. The attached letter contains the rationale for the disposition and your appeal rights.

Sincerely,
EPA National FOIA Office

EP EPA-2021-001511.pdf

FOIA Expedited Processing Disposition Reached for EPA-2021-001511	System	Mr. James Chelmowski	12/30/2020
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Your request for Expedited Processing for the FOIA request EPA-2021-001511 has been denied. Additional details for this request are as follows:

- Request Created on: 12/18/2020
- Request Description: This is both a Privacy Act 5 USC 552a and FOIA Request 5 USC 552. For all Timothy Epp (all email accounts he uses for EPA business) that contained "Chelmowski" (the FOIA and Privacy Act requester's name) in the subject line, email body, attachment, email metadata from January 1, 2017 and later of the date of this search and December 18, 2020.

The emails must include emails that Timothy Epp was the sender, one of the recipients and emails Timothy Epps was copied (cc or bcc) as one of the recipients with the Microsoft Office 365 eDiscovery search and Relativity software certifications and records count.

The Search must include the EPA's FOIA centralized search using the Microsoft Office 365 eDiscovery search terms are of course "Chelmowski" to or from all Timothy Epp's email address including but not limited to Epp.Timothy@epa.gov. It is public knowledge that the EPA staff uses multiple email accounts for Federal business (i.e. Federal Records), which are not disclosed to the public.

See EPA details of the EPA FOIA Searching procedures and requirements for emails in the attached supporting files

"1- EPA's FOIA Procedures";

"2- EPA's Staff Logs Confirmation of EPA FOIA search procedures using of Microsoft eDiscovery ";

"3 - Microsoft Office 365 - eDiscovery";

"4 - Microsoft Office 365 - Search for content";

"5 - Microsoft Office 365 - legal investigation (eDiscovery) ";

"6 - EPA FOIA response letter confirming the EPA uses of Microsoft Office 365";

"7 - EPA Policy on Mobile and Portable Devices, and Records"

The EPA's FOIA procedures (1- EPA's FOIA Procedures") on page 32 to 34 states the EPA's procedure for using the Microsoft Office 365 e-discovery for Outlook email, Outlook calendars, & Skype/Lync chats. This EPA's FOIA procedure includes a link to a document on the EPA server called "<http://intranet.epa.gov/ediscovery/MSOutlookEmailSearch/> "

- Expedited Processing Original Justification: 1) This FOIA request is urgent for the Public to know how the EPA complies with their mandatory duties by Federal law on EPA Public Liaison requests. The United States Supreme Court has explained that the, "basic purpose of FOIA is to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed." The "FOIA is often explained as a means for citizens to know 'what their Government is up to.'" The Supreme Court stressed that "[t]his phrase should not be dismissed as a convenient formalism." Rather it, "defines a structural necessity in a real democracy."
- 2) The Requester needs these FOIA responsive records for his Due Process in District Court letting the Public and DC. District Court Judge Honorable James Boasberg know the facts on how the EPA complies with Federal laws. Any EPA delays on producing ALL these FOIA and Privacy Act responsive records should be considered by the active District Court as concealment and obstruction of material facts and evidence for the Requester to brief in active District Court case 17-cv-1394.
- Expedited Processing Disposition Reason: Your request does not contain the information required to support a finding that your request meets the criteria for expedited processing.

FOIA Request EPA-2021-001511 Submitted

System

Mr. James
Chelmowski

12/18/2020

This message is to confirm your request submission to the FOIAonline application: View Request. Request information is as follows:

- Tracking Number: EPA-2021-001511
- Requester Name: Mr. James Chelmowski

- Date Submitted: 12/18/2020
- Request Status: Submitted
- Description: This is both a Privacy Act 5 USC 552a and FOIA Request 5 USC 552. For all Timothy Epp (all email accounts he uses for EPA business) that contained "Chelmowski" (the FOIA and Privacy Act requester's name) in the subject line, email body, attachment, email metadata from January 1, 2017 and later of the date of this search and December 18, 2020.

The emails must include emails that Timothy Epp was the sender, one of the recipients and emails Timothy Epps was copied (cc or bcc) as one of the recipients with the Microsoft Office 365 eDiscovery search and Relativity software certifications and records count.

The Search must include the EPA's FOIA centralized search using the Microsoft Office 365 eDiscovery search terms are of course "Chelmowski" to or from all Timothy Epp's email address including but not limited to Epp.Timothy@epa.gov. It is public knowledge that the EPA staff uses multiple email accounts for Federal business (i.e. Federal Records), which are not disclosed to the public.

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"4 – Microsoft Office 365 – Search for content";

"5 – Microsoft Office 365 – legal investigation (eDiscovery) ";

"6 – EPA FOIA response letter confirming the EPA uses of Microsoft Office 365";

"7 – EPA Policy on Mobile and Portable Devices, and Records"

The EPA's FOIA procedures (1- EPA's FOIA Procedures") on page 32 to 34 states the EPA's procedure for using the Microsoft Office 365 e-discovery for Outlook email, Outlook calendars, & Skype/Lync chats. This EPA's FOIA procedure includes a link to a document on the EPA server called "http://intranet.epa.gov/ediscovery/MSOutlookEmailSearch/ "

Re: EPA-2021-001511 Proposed Response and Fee Estimate -
REPLY DUE April 20, 2021

Mr. James
Chelmowski

Mr. James
Chelmowski

04/16/2021

This email was sent today by email with Read Confirmations by the DOJ OIP therefore the EPA cannot deny receipt on April 16, 2021. This email with the DOJ OIP reconfirmation will also be uploaded in the Supporting files. See below: _____ From: OIP.ComplianceInquiry (OIP) Sent: Friday, April 16, 2021 10:10 AM To: (b) (6) Subject: Read: Chelmowski April 15, 2021 response to EPA-2021-001511 Proposed Response and Fee Estimate - REPLY DUE April 20, 2021 Importance: High Your message To: OIP.ComplianceInquiry (OIP) Subject: FW: Chelmowski April 15, 2021 response to EPA-2021-001511 Proposed Response and Fee Estimate - REPLY DUE April 20, 2021 Sent: Friday, April 16, 2021 9:13:26 AM (UTC-05:00) Eastern Time (US & Canada) was read on Friday, April 16, 2021 11:09:26 AM (UTC-05:00) Eastern Time (US & Canada). From: (b) (6) Sent: Friday, April 16, 2021 8:13 AM To: 'FOIA HQ'; 'privacy@epa.gov'; 'foia@epa.gov'; 'hoffer.melissa@epa.gov' Cc: 'OIP.ComplianceInquiry@usdoj.gov'; 'Criminal.Division@usdoj.gov' Subject: FW: Chelmowski April 15, 2021 response to EPA-2021-001511 Proposed Response and Fee Estimate - REPLY DUE April 20, 2021 Importance: High Dear EPA, EPA FOIA office, EPA Privacy Act office, and EPA Chief FOIA Officer Melissa Hoffer: No one confirmed receipt of yesterday email, the EPA is providing deadlines to obstruct and conceal the EPA records regarding me from rights by federal law FOIA and Privacy Act. Request EPA-2021-001511 for all EPA FOIA Public Liaison Timothy Epp's email request regarding me the requester on December 18, 2020 which is 119 days ago. On March 31, 2021 which was over 100 days after the request month past the 20-day deadline the EPA is now demanding the following for the "First-Party" request for EPA Timothy Epps communications requester. Search Fees: \$376.50 Review Fees: \$453.50 Total Fees: \$376.50 + \$453.50 = \$830.00 Since, EPA FOIA Public Liaison Timothy Epp will not provide the responds to my FOIA Public Liaison issues in writing. I have

filed an Appeal with the EPA for seven argument in yesterday for EPA-2021-002747 for a closed FOIA request that EPA demanded similar fees. The EPA has until May 13, 2021 to provide EPA responses to ALL 7 arguments see attached. Within 21 days of receiving the EPA Appeal determination on ALL SEVEN ARGUMENTS I will respond to this EPA letter. The EPA March 31, 2021 appears to be using threats and intimidation with a 20-day deadline for EPA illegal fees. If not, the EPA will not provide the 1,333 response records the EPA already found and will not produce without Chelkowski paying illegal search and review fees. The EPA holding hostage of these FOIA and Privacy Act responsive records and over 100 days later on March 31, 2021 demanding \$830.00 in illegal fees of \$376.50 Search Fees and \$453.50 Review Fees to obtain these responsive records that I should have received in January of 2021. This "First-Party" request was filed under both FOIA and Privacy Act. As the EPA defines in every EPA FOIA Annual report to the Attorney General, and the Department of Justice the following: The EPA Annual Report contains the definition for FOIA Requests in Section III. Acronyms, Definitions and Exemptions – FOIA Request – a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a "thirdparty" request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., "first-party" requests) when those requesters are not subject to the Privacy Act, such as non U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act "systems of records" or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report. Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.) (emphasis added) Please confirm receipt of this email, before noon today. James Chelkowski. From: (b) (6) Sent: Thursday, April 15, 2021 11:05 AM To: 'FOIA HQ'; 'foia@epa.gov'; 'privacy@epa.gov'; 'roberts.antonio@epa.gov'; 'remitter.nicole@epa.gov' Cc: 'OIP.ComplianceInquiry@usdoj.gov' Subject: Chelkowski April 15, 2021 response to EPA-2021-001511 Proposed Response and Fee Estimate - REPLY DUE April 20, 2021 Importance: High Dear EPA, EPA FOIA office and EPA Privacy Act office: Please confirm receipt of this email. Chelkowski will reply to this letter after the EPA provides the EPA Appeal decision EPA-2021-2747 on or before May 13, 2021 for the following arguments. Any closure of this request for FEE DEMANDS prior to Chelkowski having at least 21 days to review the EPA decision of ALL 7 Arguments will be considered Fraudulently and/or Negligently concealing these responsive records. Please see the attached Appeal filed today on FOIAonline with the following arguments. Argument 1 – The EPA cannot deny Chelkowski's rights to FOIA and Privacy Act because the responsive records could expose corruption in the EPA. The following is from the Department of Justice and the US Supreme Court The United States Supreme Court has explained that the, "basic purpose of FOIA is to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed." The "FOIA is often explained as a means for citizens to know 'what their Government is up to.'" The Supreme Court stressed that "[t]his phrase should not be dismissed as a convenient formalism." Rather it, "defines a structural necessity in a real democracy." As President Obama has declared a, "democracy requires accountability, and accountability requires transparency." The FOIA "encourages accountability through transparency." See DOJ website

<https://www.justice.gov/archives/open/foia> Argument 2 – The EPA cannot use Excessive Fees to Discourage Request. Freedom of Information Act Guide, May 2004 states: Estimated fees, though, are not intended to be used to discourage requesters from exercising their access rights under the FOIA. See Hall v. CIA, No. 04-0814, 2006 WL 197462, at *3 & n.4 (D.D.C. Jan. 25, 2006) (recognizing that it would be improper for agencies to inflate fees to discourage requests); see also Presidential Memorandum for Heads of Executive Departments and Agencies Concerning the Freedom of Information Act, 74 Fed. Reg. 4683 (Jan. 21, 2009) (directing agencies to "act promptly and in a spirit of cooperation" in responding to FOIA requests). OMB Fee Guidelines, 52 Fed. Reg. at 10,018; see also FOIA Update, Vol. XVI, No. 1, at 1-2 (stressing importance of cost-efficiency to overall process of FOIA administration); cf. Attorney General Ashcroft's FOIA Memorandum, reprinted in FOIA Post (posted 10/15/01) (stressing importance of "efficien[cy]" in government) accord Presidential Memorandum for Heads of Departments and Agencies Regarding the Freedom of Information Act, 29 Weekly Comp. Pres. Doc. 1999 (Oct. 4, 1993), reprinted in FOIA Update, Vol. XIV, No. 3, at 3 ("Federal departments and agencies should handle requests for information in a customer-friendly manner."); see also Attorney General's Memorandum for Heads of All Federal Departments and Agencies Regarding the Freedom of Information Act (Oct. 12, 2001) [hereinafter Attorney General Ashcroft's FOIA Memorandum], reprinted in FOIA Post (posted 10/15/01) (emphasizing that the citizenry has "a strong interest" in

"efficient" government functioning) Argument 3 - A requester that uses a cell phone without a home phone number is not a Commercial Requester. There is nothing in the FOIA law stating if a requester uses a cell phone number he/she is considered a Commercial Requester. Argument 4 - The EPA's FOIAonline sign up does not state to provide a home address or what type of address to enter and receive correspondence from the Agency pursuant FOIA and Privacy Act. If the requester does not provide their home address the Agency treats the request as Commercial Requester for First-Party requests regarding himself so the EPA can conceal their federal records which could prove EPA corruption. FOIAonline signup did not request home phone numbers or home addresses. See FOIAonline "Create a Public Account" below from the EPA's FOIAonline instructions nothing states: Argument 5 - The EPA identified Chelmowski occupation was in the Mortgage industry, How are these EPA responsive records are being used commercially in the Mortgage industry to help Chelmowski obtain more mortgages? So the EPA can conceal first-party records in the EPA Privacy Act system of records that would expose EPA corruption. See EPA Denise Walker extremely length virtually unreadable letters. EPA and attorney Walker are trying demand illegal fees to coverup apparent corruption in the EPA. Argument 6 - The EPA must comply OMB Fee Guidelines including using the Privacy Act fee schedule for requests for First-Party Requests. FOIA law and OMB Guidelines The EPA DOES NOT have AUTHORITY to collect search fees on Freedom of Information Act Request about the Request was illegal pursuant to Uniform Freedom of Information Act Fee Schedule and Guidelines, 52 Fed. Reg. 10012, 10014 (Mar. 27, 1987) (OMB Fee Guidelines) "These FOIA fee guidelines rely on that authority to remind agencies that the fee schedule provided herein does not apply to individuals seeking access to their own records which are filed in Privacy Act systems of records. Similarly, the budgetary authorities cited mandate that funds agencies receive for providing FOIA services are to be deposited in the general revenues of the United States rather than individual agency accounts. OMB has made one change to this section and that is to add a reference to the Privacy Act of 1974." "Section 8d. 'All Other Requesters.' OMB has revised this section to explain that the requests of record subjects asking for copies of records about themselves filed in agencies' systems of records must be processed under the Privacy Act's fee schedule" "Moreover, requests from record subjects for records about themselves filed in agencies' systems of records will continue to be treated under the fee provisions of the Privacy Act of 1974 which permit fees only for reproduction." "Privacy Act 5 U.S.C. § 552a(f)(5) establish fees to be charged, if any, to any individual for making copies of his record, excluding the cost of any search for and review of the record." Argument 7 - The EPA repeatedly told the Attorney General and the Department of Justice that the EPA processes its First-Party requests as both FOIA and Privacy Act to provide the greatest access of records in the EPA definition of FOIA requests. The EPA Annual Report contains the definition for FOIA Requests in Section III.

Acronyms, Definitions and Exemptions -FOIA Request - a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a "thirdparty" request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., "first-party" requests) when those requesters are not subject to the Privacy Act, such as non U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act "systems of records" or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report. Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.) (emphasis added) From: roberts.antonio@epa.gov Sent: Wednesday, March 31, 2021 1:48 PM To: (b) (6) Cc: hq.foia@epa.gov Subject: EPA-2021-001511 Proposed Response and Fee Estimate - REPLY DUE April 20, 2021 Dear Mr. Chelmowski: Please find the attached letter regarding your FOIA request, EPA-2021-001511. As explained in the letter, you must provide your assurance of payment or request for additional time to consider our fee estimate on or before April 20, 2021. If we do not receive your assurance of payment or request for additional time before April 20, 2021, EPA will administratively close your request. Please contact Denise Walker at walker.denise@epa.gov with your response or questions about your request. Respectfully, EPA National FOIA Office

Dear Mr. Chelmowski:

I hope this letter finds you well in the New Year.

Please see the attached correspondence.

Best,

Denise A. Walker

Letter to Requester Chelmowski Re Correspondence with EPA 01.22.2021.pdf

EPA-2021-001511 Proposed Response and Fee Estimate -
REPLY DUE April 20, 2021

Nicole
Rementer

Mr. James
Chelmowski

03/31/2021

Dear Mr. Chelmowski:

Please find the attached letter regarding your FOIA request, EPA-2021-001511. As explained in the letter, you must provide your assurance of payment or request for additional time to consider our fee estimate on or before **April 20, 2021**. If we do not receive your assurance of payment or request for additional time before April 20, 2021, EPA will administratively close your request.

Please contact Denise Walker at walker.denise@epa.gov with your response or questions about your request.

Respectfully,

EPA National FOIA Office

EPA-HQ-2021-0001511 Fee Estimate Letter 03312021.pdf

Re: EPA-2021-001511 Proposed Response and Fee Estimate -
REPLY DUE April 20, 2021

Mr. James
Chelmowski

Mr. James
Chelmowski

04/20/2021

Sent by email and uploaded as a Supporting fileFrom: (b) (6) To: "FOIA
HQ"; privacy@epa.gov; foia@epa.gov; hoffer.melissa@epa.govCc: OIP.ComplianceInquiry@usdoj.gov;
Criminal.Division@usdoj.gov; roberts.antonio@epa.gov; walker.denise@epa.gov;
rementer.nicole@epa.govSubject: RE: Chelmowski resent on April 20, 2021 - RE: Chelmowski April 15, 2021
response to EPA-2021-001511 Proposed Response and Fee Estimate - REPLY DUE April 20, 2021Date:
Tuesday, April 20, 2021 9:28:54 AMAttachments: EPA-HQ-2021-0001511 Fee Estimate Letter 03312021.pdf FOIA
Appeal for EPA-HQ-2021-002747.pdfImportance: HighDear EPA, EPA FOIA office, EPA Privacy Act office, and
EPA Chief FOIA Officer Melissa Hoffer:EPA provides deadlines to deny my rights as US citizen then refuses to confirm
receipt of the emails. I need the EPA written confirmation receipt of this email by 4pm today!No one confirmed
receipt of these prior 2 emails, the EPA is providing deadlines to obstruct and conceal the EPA records regarding me
a US Citizen from rights by federal law FOIA and Privacy Act.Request EPA-2021-001511 for all EPA FOIA Public Liaison
Timothy Epp's email request regarding me the requester on December 18, 2020 which is 119 days ago.On March 31,
2021 which was over 100 days after the request month past the 20-day deadline the EPA is now demanding the
following for the "First-Party" request for EPA Timothy Epps communications requester.Search Fees: \$376.50
Review Fees: \$453.50Total Fees: \$376.50 + \$453.50 = \$830.00Since, EPA FOIA Public Liaison Timothy Epp will not
provide the responds to my FOIA Public Liaison issues in writing. I have filed an Appeal with the EPA for seven
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review fees. The EPA holding hostage of these FOIA and Privacy Act responsive records and over 100 days later on March 31, 2021 demanding \$830.00 in illegal fees of \$376.50 Search Fees and \$453.50 Review Fees to obtain these responsive records that I should have received in January of 2021. This "First-Party" request was filed under both FOIA and Privacy Act. As the EPA defines in every EPA FOIA Annual report to the Attorney General, and the Department of Justice the following: The EPA Annual Report contains the definition for FOIA Requests in Section III. Acronyms, Definitions and Exemptions – FOIA Request – a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a "thirdparty" request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., "first-party" requests) when those requesters are not subject to the Privacy Act, such as non U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act "systems of records" or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report. Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.) (emphasis added) Please confirm receipt of this email, before noon today.

James Chelmowski. From: (b) (6) Sent: Friday, April 16, 2021 8:13 AM To: 'FOIA HQ'; 'privacy@epa.gov'; 'foia@epa.gov'; 'hoffer.melissa@epa.gov' Cc: 'OIP.ComplianceInquiry@usdoj.gov'; 'Criminal.Division@usdoj.gov' Subject: FW: Chelmowski April 15, 2021 response to EPA-2021-001511 Proposed Response and Fee Estimate - REPLY DUE April 20, 2021 Importance: High Dear EPA, EPA FOIA office, EPA Privacy Act office, and EPA Chief FOIA Officer Melissa Hoffer: No one confirmed receipt of yesterday email, the EPA is providing deadlines to obstruct and conceal the EPA records regarding me from rights by federal law FOIA and Privacy Act. Request EPA-2021-001511 for all EPA FOIA Public Liaison Timothy Epp's email request regarding me the requester on December 18, 2020 which is 119 days ago. On March 31, 2021 which was over 100 days after the request month past the 20-day deadline the EPA is now demanding the following for the "First-Party" request for EPA Timothy Epps communications requester. Search Fees: \$376.50 Review Fees: \$453.50 Total Fees: \$376.50 + \$453.50 = \$830.00 Since, EPA FOIA Public Liaison Timothy Epp will not provide the responds to my FOIA Public Liaison issues in writing. I have filed an Appeal with the EPA for seven argument in yesterday for EPA-2021- 002747 for a closed FOIA request that EPA demanded similar fees. The EPA has until May 13, 2021 to provide EPA responses to ALL 7 arguments see attached. Within 21 days of receiving the EPA Appeal determination on ALL SEVEN ARGUMENTS I will respond to this EPA letter. The EPA March 31, 2021 appears to be using threats and intimidation with a 20-day deadline for EPA illegal fees. If not, the EPA will not provide the 1,333 response records the EPA already found and will not produce without Chelmowski paying illegal search and review fees. The EPA holding hostage of these FOIA and Privacy Act responsive records and over 100 days later on March 31, 2021 demanding \$830.00 in illegal fees of \$376.50 Search Fees and \$453.50 Review Fees to obtain these responsive records that I should have received in January of 2021. This "First-Party" request was filed under both FOIA and Privacy Act. As the EPA defines in every EPA FOIA Annual report to the Attorney General, and the Department of Justice the following: The EPA Annual Report contains the definition for FOIA Requests in Section III. Acronyms, Definitions and Exemptions – FOIA Request – a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a "thirdparty" request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., "first-party" requests) when those requesters are not subject to the Privacy Act, such as non U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act "systems of records" or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report. Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.) (emphasis added) Please confirm receipt of this email, before noon today. James Chelmowski. From:

(b) (6) Sent: Thursday, April 15, 2021 11:05 AM To: 'FOIA HQ'; 'foia@epa.gov'; 'privacy@epa.gov'; 'roberts.antonio@epa.gov'; 'remitter.nicole@epa.gov' Cc: 'OIP.ComplianceInquiry@usdoj.gov' Subject: Chelmowski April 15, 2021 response to EPA-2021-001511 Proposed Response and Fee Estimate - REPLY DUE

April 20, 2021 Importance: High Dear EPA, EPA FOIA office and EPA Privacy Act office: Please confirm receipt of this email. Chelmowski will reply to this letter after the EPA provides the EPA Appeal decision EPA-2021-2747 on or before May 13, 2021 for the following arguments. Any closure of this request for FEE DEMANDS prior to Chelmowski having at least 21 days to review the EPA decision of ALL 7 Arguments will be considered Fraudulently and/or Negligently concealing these responsive records. Please see the attached Appeal filed today on FOIAonline with the following arguments.

Argument 1 – The EPA cannot deny Chelmowski's rights to FOIA and Privacy Act because the responsive records could expose corruption in the EPA. The following is from the Department of Justice and the US Supreme Court. The United States Supreme Court has explained that the, "basic purpose of FOIA is to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed." The "FOIA is often explained as a means for citizens to know 'what their Government is up to.'" The Supreme Court stressed that "[t]his phrase should not be dismissed as a convenient formalism." Rather it, "defines a structural necessity in a real democracy." As President Obama has declared a, "democracy requires accountability, and accountability requires transparency." The FOIA "encourages accountability through transparency." See DOJ website <https://www.justice.gov/archives/open/foia>

Argument 2 – The EPA cannot use Excessive Fees to Discourage Request. Freedom of Information Act Guide, May 2004 states: Estimated fees, though, are not intended to be used to discourage requesters from exercising their access rights under the FOIA. See *Hall v. CIA*, No. 04-0814, 2006 WL 197462, at *3 & n.4 (D.D.C. Jan. 25, 2006) (recognizing that it would be improper for agencies to inflate fees to discourage requests); see also Presidential Memorandum for Heads of Executive Departments and Agencies Concerning the Freedom of Information Act, 74 Fed. Reg. 4683 (Jan. 21, 2009) (directing agencies to "act promptly and in a spirit of cooperation" in responding to FOIA requests). OMB Fee Guidelines, 52 Fed. Reg. at 10,018; see also FOIA Update, Vol. XVI, No. 1, at 1-2 (stressing importance of cost-efficiency to overall process of FOIA administration); cf. Attorney General Ashcroft's FOIA Memorandum, reprinted in FOIA Post (posted 10/15/01) (stressing importance of "efficient[cy]" in government) accord Presidential Memorandum for Heads of Departments and Agencies Regarding the Freedom of Information Act, 29 Weekly Comp. Pres. Doc. 1999 (Oct. 4, 1993), reprinted in FOIA Update, Vol. XIV, No. 3, at 3 ("Federal departments and agencies should handle requests for information in a customer-friendly manner."); see also Attorney General's Memorandum for Heads of All Federal Departments and Agencies Regarding the Freedom of Information Act (Oct. 12, 2001) [hereinafter Attorney General Ashcroft's FOIA Memorandum], reprinted in FOIA Post (posted 10/15/01) (emphasizing that the citizenry has "a strong interest" in "efficient" government functioning).

Argument 3 – A requester that uses a cell phone without a home phone number is not a Commercial Requester. There is nothing in the FOIA law stating if a requester uses a cell phone number he/she is considered a Commercial Requester.

Argument 4 – The EPA's FOIAonline sign up does not state to provide a home address or what type of address to enter and receive correspondence from the Agency pursuant FOIA and Privacy Act. If the requester does not provide their home address the Agency treats the request as Commercial Requester for First-Party requests regarding himself so the EPA can conceal their federal records which could prove EPA corruption. FOIAonline signup did not request home phone numbers or home addresses. See FOIAonline "Create a Public Account" below from the EPA's FOIAonline instructions nothing states:

Argument 5 – The EPA identified Chelmowski occupation was in the Mortgage industry, How are these EPA responsive records being used commercially in the Mortgage industry to help Chelmowski obtain more mortgages? So the EPA can conceal first-party records in the EPA Privacy Act system of records that would expose EPA corruption. See EPA Denise Walker extremely length virtually unreadable letters. EPA and attorney Walker are trying demand illegal fees to coverup apparent corruption in the EPA.

Argument 6 – The EPA must comply OMB Fee Guidelines including using the Privacy Act fee schedule for requests for First-Party Requests. FOIA law and OMB Guidelines. The EPA DOES NOT have AUTHORITY to collect search fees on Freedom of Information Act Request about the Request was illegal pursuant to Uniform Freedom of Information Act Fee Schedule and Guidelines, 52 Fed. Reg. 10012, 10014 (Mar. 27, 1987) (OMB Fee Guidelines) "These FOIA fee guidelines rely on that authority to remind agencies that the fee schedule provided herein does not apply to individuals seeking access to their own records which are filed in Privacy Act systems of records. Similarly, the budgetary authorities cited mandate that funds agencies receive for providing FOIA services are to be deposited in the general revenues of the United States rather than individual agency accounts. OMB has made one change to this section and that is to add a reference to the Privacy Act of 1974." "Section 8d. 'All Other Requesters.' OMB has revised this section to explain that the requests of record subjects asking for copies of records about themselves filed in agencies' systems of records must be processed under the Privacy Act's fee schedule" "Moreover, requests from record subjects for records about themselves filed in agencies' systems of records will continue to be treated under the fee provisions of the Privacy Act of 1974 which permit fees only for reproduction." "Privacy Act 5 U.S.C. § 552a(f)(5)

establish fees to be charged, if any, to any individual for making copies of his record, excluding the cost of any search for and review of the record."Argument 7 – The EPA repeatedly told the Attorney General and the Department of Justice that the EPA processes it's First-Party requests as both FOIA and Privacy Act to provide the greatest access of records in the EPA definition of FOIA requests. The EPA Annual Report contains the definition for FOIA Requests in Section III. Acronyms, Definitions and Exemptions –FOIA Request – a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a "thirdparty" request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., "first-party" requests) when those requesters are not subject to the Privacy Act, such as non U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act "systems of records" or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report. Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.) (emphasis added)From:

roberts.antonio@epa.gov Sent: Wednesday, March 31, 2021 1:48 PM To: (b) (6) Cc: hq.foia@epa.gov Subject: EPA-2021-001511 Proposed Response and Fee Estimate - REPLY DUE April 20, 2021 Dear Mr. Chelmowski: Please find the attached letter regarding your FOIA request, EPA-2021-001511. As explained in the letter, you must provide your assurance of payment or request for additional time to consider our fee estimate on or before April 20, 2021. If we do not receive your assurance of payment or request for additional time before April 20, 2021, EPA will administratively close your request. Please contact Denise Walker at walker.denise@epa.gov with your response or questions about your request. Respectfully, EPA National FOIA Office

EPA-2021-001511 Clock Stopped for Fees. Please submit further clarification

Denise Walker

Mr. James Chelmowski

02/12/2021

Dear Mr. Chelmowski:

I hope this finds you well.

Please see the attached correspondence.

Best,

Denise A. Walker

Clarification Letter to Requester Chelmowski Re Fee Category 021221.pdf

Other Correspondence

Attached File	File Type	Size (MB)
Other-20210305134315-Clarification Letter to Requester Chelmowski Re Fee Category 021221.pdf	Adobe PDF Document	0.5849
Other-20210305134315-Request Clarification Letter.pdf	Adobe PDF Document	0.0265
Other-20210421133133-RE_ Chelmowski April 15, 2021 response to EPA-2021-001511 Proposed Response and Fee Estimate - REPLY DUE April 20, 2021.pdf	Adobe PDF Document	0.4076

Fee Estimates

Current Estimate Total	\$0
Date Estimate Sent to Requester	N/A
Estimate Required for Payment	N/A

Invoices

Sent	Title	Invoice Date	Amount
No	EPA-2021-001511 Invoice-20210421171853402.pdf	04/21/2021	\$0.00

Total Amount Billed Which Has
Been Sent To Requester \$0.00

Payments

Date	Amount	Type	Total Amount Paid	Total Amount Owed
			\$0.00	\$0.00
No payments have been added.				

Case Responsive Records

Publish Options:

UU - Unredacted - Unreleaseable

RU - Redacted - Unreleasable

**UR - Unredacted - Releaseable to the
General Public**

**RR - Redacted - Releasable to the General
Public**

REQ - Release to Requester Only

Release Type	Title	User	Date/Time	Exemptions	Release Date
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No records have been uploaded.

Restricted Materials

Attached File Name	Size (MB)	File Type	User	Actual Agency	Date/Time
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No restricted materials have been added.

Existing Admin Costs

Date	User Name	Charge Type	Hours/Quantity	Rate	Billable?	Total
04/21/2021	Denise Walker	Other	N/A	N/A	No	41.00

Charge Description	letter drafting					

Fee Category: Commercial

Total: \$0.00

Invoice Amount: \$0.00

Assigned Tasks

Outcome	Task Type	Assigned To	Assigned By	Submitted Date	Due Date	Closed Date	Notification	Justi
Deny	Expedited Processing	Antonio B Roberts	Antonio B Roberts	12/18/2020	12/28/2020	2020-12-30T05:00:00.000Z	No	
<p>Requester Justification 1) This FOIA request is urgent for the Public to know how the EPA complies with their mandatory duties by Federal law on EPA Public Liaison requests. The United States Supreme Court has explained that the, "basic purpose of FOIA is to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed." The "FOIA is often explained as a means for citizens to know 'what their Government is up to.'" The Supreme Court stressed that "[t]his phrase should not be dismissed as a convenient formalism." Rather it, "defines a structural necessity in a real democracy."</p> <p>2) The Requester needs these FOIA responsive records for his Due Process in District Court letting the Public and DC. District Court Judge Honorable James Boasberg know the facts on how the EPA complies with Federal laws. Any EPA delays on producing ALL these FOIA and Privacy Act responsive records should be considered by the active District Court as concealment and obstruction of material facts and evidence for the Requester to brief in active District Court case 17-cv-1394.</p>								
Decision	Your request does not contain the information required to support a finding that your request meets the criteria for expedited processing.							
Other	Initial Review	Antonio B Roberts	Larry C Johnson	12/18/2020	12/28/2020	2020-12-21T05:00:00.000Z	No	
Description	Intake-Review and assign as you determine							
Comments	Assigned to OGC-NFO, Nicole. Clock started, unusual cir invoked.							
Other	Concurrence Pending	Nicole Rementer	Antonio B Roberts	12/22/2020	12/28/2020	2021-01-04T05:00:00.000Z	No	
Description	Letter uploaded, cc to Denise.							
Comments	EP letter sent to requester							
Approve	Case File Review	Nicole Rementer	Denise Walker	04/21/2021	04/21/2021	2021-04-21T21:20:27.517Z	No	
Comments	EPA-2021-001511 Closed for failure to provide assurance of payment 4-1-2021 daw							
Completed	Final Disposition Notice	Nicole Rementer	Denise Walker	04/21/2021	04/21/2021	2021-04-21T21:22:14.683Z	No	

Comments

N/A

Existing Comments (2)

Date Created	Last Edited On	User Name
02/12/2021 03:30 PM	02/12/2021 03:30 PM	Denise Walker
Comment	Database is back from EDD as of 2-4 (while Nicole was on Vacation) Nicole is working on estimate/ updates.	
12/18/2020 02:54 PM	12/18/2020 02:54 PM	Denise Walker
Comment	Antonio- Please assign to Nicole to process concurrently with EPA-2021-001196 which seeks records to/from the Public Liaison (Tim Epp). Nicole and Antonio- please see draft letter. DAW	

Assigned Reviewers

Review Order	Review Outcome	Assigned Reviewer	Review Date
1	Approve: Case File Review	Nicole Rementer	TBD



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
GENERAL COUNSEL

Mr. James Chelmowski

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(b) (6) (b) (6)

Re: Freedom of Information Act Request No. EPA-HQ-2021-001511, Initial Response

Dear Mr. Chelmowski:

Thank you for your Freedom of Information Act request. The Environmental Protection Agency has received, and continues to receive, numerous Freedom of Information Act requests from you. We are diligently processing these requests.

This letter concerns the above-referenced Freedom of Information Act (FOIA) request, received by the U.S. Environmental Protection Agency (EPA or Agency) on December 18, 2020 and subsequently modified by you on December 18, 2020 in which you requested:

This is both a Privacy Act 5 USC 552a and FOIA Request 5 USC 552. For all Timothy Epp (all email accounts he uses for EPA business) that contained "Chelmowski" (the FOIA and Privacy Act requester's name) in the subject line, email body, attachment, email metadata from January 1, 2017 to the later of the date of this search and December 18, 2020. The emails must include emails that Timothy Epp was the sender, one of the recipients and emails Timothy Epps was copied (cc or bcc) as one of the recipients with the Microsoft Office 365 eDiscovery search Certification and Relativity software certifications and records count. The Search must include the EPA's FOIA centralized search using the Microsoft Office 365 eDiscovery search terms are of course "Chelmowski" to or from all Timothy Epp's email address including but not limited to Epp.Timothy@epa.gov. It is public knowledge that the EPA staff uses multiple email accounts for Federal business (i.e. Federal Records), which are not disclosed to the public. See EPA details of the EPA FOIA Searching procedures and requirements for emails in the attached supporting files 1- EPA's FOIA Procedures 2- EPA's Staff Logs Confirmation of EPA FOIA search procedures using of Microsoft eDiscovery 3 – Microsoft Office 365 – eDiscovery 4 – Microsoft Office 365 – Search for content 5 – Microsoft Office 365 - legal investigation (eDiscovery) 6 – EPA FOIA response letter confirming the EPA uses of Microsoft Office 365 7 – EPA Policy on Mobile and Portable Devices, and Records 8- DOJ Handbook for Agency Annual FOIA Reports DOJ Handbook requirement for Agency include the following: g. FOIA Request .. FOIA

requests also include requests made by requesters seeking records concerning themselves (i.e., "first-party" requests) ... all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act ...and the agency ... to afford the greatest possible access

II. Unusual Circumstances and Extension of Time

Pursuant to 40 C.F.R. § 2.104(d), an extension of time to respond to your request is necessary. Given the scope of the request, EPA anticipates the need to coordinate with multiple offices within EPA.

III. Fees

You were placed in the "other" fee category, which means you will be charged for search, and duplication costs in accordance with the Agency's regulations under 40 C.F.R. Part 2, Subpart A. Therefore, we must receive an assurance of payment before processing the request.

IV. Assignment

Your request has been assigned to the OGC National FOIA Office for processing.

V. Next Steps

You may contact Nicole Rementer rementer.nicole@epa.gov if you have any further questions. We will submit the search and continue processing your FOIA request. We will provide you with an estimated timeframe for completion and fee estimate once we have more information about the volume of the collection. We will provide you with this information on or before **January 18, 2021**.

Additionally, you may seek assistance from EPA's FOIA Public Liaison at hq.foia@epa.gov or (202) 566-1667, or from the Office of Government Information Services (OGIS). You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, Room 2510, 8610 Adelphi Road, College Park, MD 20740-6001; email, ogis@nara.gov; telephone, (202) 741-5770 or (877) 684-6448; or fax, (202) 741-5769.

If you wish to request information connected to this request in the future, please reference the FOIA request number.

Sincerely,

/s/ Denise A. Walker
Denise A. Walker
Office of General Counsel

FOIAOnline Invoice

EPA/HQ/OGC/NFO

OGC National FOIA Office
1200 Pennsylvania Ave NW
MC 2310A
Washington, DC 20460

Invoice Date

04/21/2021

Mail Payment To

USEPA, FOIA and Miscellaneous Payments, Cincinnati
Finance Center
P.O. Box 979078
St. Louis, MO 63197

**Requester Contact
Information**

James Chelmowski

(b) (6) (b) (6)

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(b) (6)

Case File Information

Tracking Number	EPA-2021-001511
Request Received On	12/18/2020
Request Received By	OGC National FOIA Office
Request Fulfilled By	Nicole Rementer
Requester Fee Category	Commercial

Comments / Instructions

An On-Line Payment Option is available through Department of the Treasury at <https://www.pay.gov>. Go to "Search Public Forms ", Enter "SFO 1.1." Choose " EPA Miscellaneous Payments-Cincinnati Finance Center" and follow payment instructions. Please note, payment is due within 30 days of the invoice date. Interest and late charges may apply to overdue payments.

Description	Quantity	Amount
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\$0.00 (Invoice Total)

EPA-2021-002747 request Details

Due Date: 03/23/2021 Clock Days: 1

Requester Information

Requester	Mr. James Chelmowski	Tracking Number	EPA-2021-002747
Organization		Submitted Date	02/22/2021
Requester Has Account	Yes	Received Date	02/22/2021
Email Address	(b) (6)	Perfected Date	02/23/2021
Phone Number		Last Assigned Date	04/29/2021
Fax Number		Assigned To	Ian Altendorfer (Headquarters)
Address	(b) (6)	Last Assigned By	Ian Altendorfer (Headquarters)
City		Request Track	Simple
State/Province		Fee Limit	\$25.00
Zip Code/Postal Code			

Request Handling

Requester Info Available to the Public	Yes	Request Type	FOIA
Request Track	Simple	Request Perfected	Yes
Fee Category	Commercial	Perfected Date	02/23/2021
Fee Waiver Requested	No	Acknowledgement Sent Date	
Fee Waiver Status		Unusual Circumstances	No
Expedited Processing Requested	Yes	Litigation	No
Expedited Processing Status	Deny	Court Docket Number	
		5 Day Notifications?	No

Description

Long Description

FOIA and Privacy Act Request for all EPA FOIAonline EPA Privacy Act System of records EPA-9 for FOIA Request EPA-2021-000337; and FOIA Appeals EPA-2021-002012 and EPA-2021-002054. Therefore, EPA system manager Tim Crawford must provide a Privacy Act search of EPA-9 "FOIAonline" for ALL FOIAonline internal and external records for this FOIA request and two FOIA Appeals. The EPA must process this request under both FOIA and Privacy Act. The EPA stated as facts to the Department of Justice (DOJ) in the EPA FOIA Annual report with associated raw data regarding EPA FOIA request including EPA processed all first-party FOIA as both FOIA and Privacy Act requests for greater access to records like many filed by James Chelmowski: g. FOIA Request - a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a "third-party" request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., "firstparty" requests) when those requesters are not subject to the Privacy Act, such as non-U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act "systems of records" or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report. Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.)

Has Description Been Modified

Yes

Long Description Modified

FOIA and Privacy Act Request for the entire internal and external EPA FOIAonline Privacy Act System of records EPA-9 for FOIA/PA Request EPA-2021-000337; and FOIA Appeals EPA-2021-002012 and EPA-2021-002054. Must include everything in FOIAonline internal and external who created the request and appeals, all notes, comment, emails, tasks ... the entire FOIAonline record. Everything associated with this request and appeals contained in FOIAonline Privacy Act System of Records EPA-9. Therefore, EPA system manager Tim Crawford must provide a Privacy Act search of EPA-9 "FOIAonline" for ALL FOIAonline internal and external records for this FOIA request and two FOIA Appeals. The EPA must process this request under both FOIA and Privacy Act. The EPA stated as facts to the Department of Justice (DOJ) in the EPA FOIA Annual report with associated raw data regarding EPA FOIA request including EPA processed all first-party FOIA as both FOIA and Privacy Act requests for greater access to records like many filed by James Chelmowski: g. FOIA Request - a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a "third-party" request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., "firstparty" requests) when those requesters are not subject to the Privacy Act, such as non-U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act "systems of records" or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report.

Description Available to the Public
Short Description

Yes

Additional Information

Unusual circumstances Invoked and Due Date Extended N/A

Date Unusual Circumstances Invoked - you MUST go to EXTEND DUE DATE in LEFT-HAND NAVIGATION BAR and COMPLETE FIELDS including ESTIMATED DATE OF COMPLETION N/A

Records Locations - Identify one or more locations where records may be located Headquarters

Attached Supporting Files

Attachments Available to the Public?
Yes

Attached File Name

Size (MB)

File Type

FCC FOIA and Privacy Act Request FCC-2021-002747.pdf	0.1026	Adobe PDF Document
FCC FOIA and Privacy Act Request FCC-2021-002747 modified 2-22-2021.pdf	0.1039	Adobe PDF Document
Request Clarification Letter.pdf	0.0265	Adobe PDF Document
Clarification Letter to Requester Chelmowski Re Fee Category 021221.pdf	0.5849	Adobe PDF Document

Appeals

Tracking Number	Appeal Date	Appellant	Phase	Notification
EPA-2021-003738	04/15/2021	James Chelmowski	Closed	No
Basis for Appeal	N/A			
Based on Fee Waiver	No			
Based on Expedited Processing	No			

Consultations

Tracking Number	Consulted Agency	Created By	Consultation Date	Due Date	Phase
No consultations have been created.					

Correspondence to Requester

Subject	From	To	Date
EPA-2021-002747 Final Commercial Fee Category Assignment Letter to Requester Chelmowski	Denise Walker	Mr. James Chelmowski	03/15/2021
Dear Mr. Chelmowski, I hope this finds you well. Please see the attached correspondence. Thank you, Denise A. Walker, Esq. Final Commercial Fee Category Assignment Letter to Requester Chelmowski 03152021.pdf			
Assignment for EPA-2021-002747	Antonio B Roberts	Mr. James Chelmowski	02/23/2021

02/23/2021

Mr. James Chelmowski

(b) (6)

(b) (6)

RE: Freedom of Information Act Request - EPA-2021-002747

Hello,

Please see attached assignment letter.

Sincerely,

National FOIA Office
U.S. Environmental Protection Agency

FOIA Request Assignment Letter.pdf

EPA-2021-002747 Proposed Response and Fee Estimate - Clock Stopped for Assurance of Payment	Denise Walker	Mr. James Chelmowski	02/24/2021
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Dear Mr. Chelmowski:

I hope this finds you well.

Please see the attached correspondence.

Best,

Denise A. Walker

202-564-6520

EPA National FOIA Office

EPA-2021-002747 Proposed Response and Fee Estimate Letter 02242021.pdf

Final Disposition, Request EPA-2021-002747	Ian Altendorfer	(UNSENT)	04/29/2021
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EPA-2021-002747 has been processed with the following final disposition: Fee-Related Reason.

Final Disposition, Request EPA-2021-002747	Denise Walker	(UNSENT)	03/18/2021
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EPA-2021-002747 has been processed with the following final disposition: Fee-Related Reason.

Close out for EPA-2021-002747	Roberta White	Mr. James Chelmowski	03/18/2021
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Hi:

Please see attached.

Sincerely,

EPA National FOIA Office

EPA-2021-002747 CLOSURE for Failure to Provide Assurance of Payment.pdf

EPA-2021-002747 Expedited Processing Determination

Antonio B
Roberts

Mr. James
Chelmowski

03/04/2021

Hello,

Please see attached letter.

Sincerely,

EPA National FOIA Office

EP EPA-2021-002747executed.pdf

Re: EPA-2021-002747 Proposed Response and Fee Estimate -
Clock Stopped for Assurance of Payment

Mr. James
Chelmowski

Mr. James
Chelmowski

03/02/2021

This documents the EPA FOIA Public Liaison Request regarding Fee Classification and ends tollingFrom:

(b) (6) Sent: Tuesday, March 2, 2021 7:53 AM To: 'Epp, Timothy'; 'foia@fcc.gov'; 'Roberts, Antonio'; 'Walker, Denise'; 'National Privacy Program'; 'Crawford, Tim'; 'Hoffer, Melissa'; 'Nishida, Jane'; 'Packard, Elise' Cc: 'OIP.ComplianceInquiry@usdoj.gov'; 'ogis@nara.gov' Subject: RE: Official FOIA Public Liaison mediation request with 6 items in dispute - These are not FOIA request questions. This is a FOIA Public Liaison Dispute Mediation Request! Importance: High Dear EPA's FOIA Public Liaison Timothy Epp and the EPA's Chief FOIA Officer Melissa Hoffer. This email stops the tolling on all FOIA and Privacy Act requests with the EPA. The EPA must comply with FOIA federal law and my right to FOIA Public Liaison Request on these 6 items. 5 USC 552(l). The EPA Chief FOIA Officer has responsibility of the EPA Public Liaison. Please explain in detail exactly what needs to be negotiated in these 6 items by March 4, 2021. With ALL YOUR QUESTIONS ON EXACTLY WHAT YOU NEED TO NEGOTIATION IN WRITNG. You can easily put exact details of what you want to negotiate in writing of the 6 items unless you do not want a documented history of the TRUE Facts. So, you and the EPA want to provide false statements. I look forward to the details of exactly what needs to be negotiated or the EPA FOIA Public Liaison response to ALL 6 items by March 4, 2021 in writing. As you know and documented on April 25, 2019 that the EPA has my preference of communications through emails not phone calls so communication would be documented in writing. You also sent your April 25, 2019 email to the EPA Administrator Andrew Wheeler and EPA General Counsel & EPA Chief FOIA Officer Matthew Leopold to document this email and my preference as a fact with the EPA. You have that email and is a Federal Record with the EPA. Your April 25, 2019 email to me is an official EPA federal record in the EPA email system and should be also stored in the EPA Privacy Act System of Records EPA-22 Correspondence Management System. You repeatedly demand ONLY phone calls after April 25, 2019. I repeatedly request everything in writing which you repeatedly refuse. Which proves why all communications between the EPA and I MUST BE in writing. Which is documented as fact in the EPA federal record of your April 25, 2019 email to Andrew Wheeler, Matthew Leopold and me. Therefore, in writing. What Exactly needs to be Negotiated? I am not Congress and I have no legal authority to create new Federal Laws. So, I cannot negotiate federal laws with the EPA. I am not the EPA who stated alleged facts to the Department of Justice (DOJ) and Attorney General (AG) on how they processed the EPA

first party FOIA requests. 5 USC 552(e). So, I cannot negotiate what the EPA stated as alleged facts to the DOJ and AG with the EPA. Which the EPA repeatedly stated as fact to the DOJ and AG that first-party requesters should be afforded the benefit of both access provisions of the FOIA as well as those of the Privacy Act. Please explain in detail exactly what needs to be negotiated with me in these 6 items. Put ALL YOUR QUESTIONS ON EXACTLY WHAT YOU NEED TO NEGOTIATION IN WRITING. OFFICIAL FOIA PUBLIC LIAISON DISPUTE MEDIATION BY 5 USC 552 CONSISTS OF THE FOLLOWING 6 (SIX) Items as follows: Provide the federal laws, regulations that give the EPA legal authority of beginning to be categorizing me as a Commercial request on or about December 30, 2020. All six dispute items must be in the FOIA Public Liaison response letter by the EPA. These items are not the FOIA request. These are disputed items in this Official FOIA Public Liaison mediation request. Provide the EPA and FOIA requirements for the phone numbers and mailing address in FOIAonline to obtain EPA records regarding the Requesters to be considered a "Other" or "Commercial" requester. That a cell phone on FOIAonline makes the requester a Commercial requester. Which are the requesters only phone number cannot used as FOIA phone number. The EPA legal authority of a FOIA requesting the EPA federal records regarding him is considered Commercial Requester. The EPA has legal authority to charge for records regarding the Requester in the EPA Privacy Act System of Records. That a FOIA and Privacy Act Requester is not entitled to the EPA federal records related to him under the FOIA and Privacy Act and the EPA must comply with federal laws, regulations, directives, policies, and procedures to provide these EPA federal records related to him. The EPA does not need to do as the EPA stated to the Department of Justice in their FOIA Annual Report that the EPA defines FOIA requests That first-party requesters should be afforded the benefit of both access provisions of the FOIA as well as those of the Privacy Act. Please explain in detail exactly what needs to be negotiated in these 6 items by March 4, 2021. With ALL YOUR QUESTIONS ON EXACTLY WHAT YOU NEED TO NEGOTIATION IN WRITING. You can easily put exact details of what you want to negotiate in writing of the 6 items unless you do not want a documented history of the TRUE Facts. So, you and the EPA want to provide false statements. I look forward to the details of exactly what needs to be negotiated or the EPA FOIA Public Liaison response to ALL 6 items by March 4, 2021 in writing. Sincerely, James Chelmowski FOIA and Privacy Act Requester

From: Epp, Timothy Sent: Monday, March 1, 2021 10:32 AM To: (b) (6) foia@fcc.gov; Roberts, Antonio ; Walker, Denise ; National Privacy Program ; Crawford, Tim ; Hoffer, Melissa ; Nishida, Jane ; Packard, Elise Cc: OIP.ComplianceInquiry@usdoj.gov; ogis@nara.gov Subject: RE: Official FOIA Public Liaison mediation request with 6 items in dispute - These are not FOIA request questions. This is a FOIA Public Liaison Dispute Mediation Request!

Dear Mr. Chelmowski, Thank you for reaching out to request EPA's FOIA Public Liaison mediation services in connection with your disputes identified in your email copied below. Please provide several times you would be available for a telephone call this week along with your telephone number. If you want, I can have another EPA supervisor talk with you to serve as EPA's Public Liaison on this matter. Please note that the FOIA does not require EPA to answer your questions; it only requires release of records (subject to certain limitations) in response to a proper request under the FOIA. The Public Liaison provisions of the FOIA do not entitle requesters to demand answers to their questions. The Public Liaison service is a dispute resolution service through which we apply interest-based negotiation methods and techniques to attempt to resolve disputes outside of litigation. Because the Public Liaison service is an interest-based negotiation process designed to explore opportunities for mutually agreeable resolution, neither EPA nor you will be bound until agreement is reached. Any agreement reached through the negotiation process would be documented in writing and you will be in full control of whether to agree to the written terms of the agreement. The process of exploring opportunities for consensual resolution does not need to be in writing – indeed, demanding that it be conducted in writing can chill the open and frank communication needed for interest-based negotiation and exploration of potential options for agreement. I look forward to talking with you regarding your interests in an effort to find a mutually agreeable resolution to your concerns.

Timothy R. Epp Associate General Counsel | National FOIA Office U.S. Environmental Protection Agency | Office of General Counsel 1200 Pennsylvania Avenue, N.W. (MC 2310A) Washington, D.C. 20460 | WJCN 7309B Phone (202) 564-2830 | epp.timothy@epa.gov From: (b) (6) Sent: Monday, March 01, 2021 9:59 AM To: Epp, Timothy ; foia@fcc.gov; Roberts, Antonio ; Walker, Denise ; National Privacy Program ; Crawford, Tim ; Hoffer, Melissa ; Nishida, Jane ; Packard, Elise Cc: OIP.ComplianceInquiry@usdoj.gov; ogis@nara.gov Subject: Official FOIA Public Liaison mediation request with 6 items in dispute - These are not FOIA request questions. This is a FOIA Public Liaison Dispute Mediation Request!

Importance: High Dear EPA, EPA's FOIA Public Liaison, and EPA's Chief FOIA Officer. I am not a Commercial requester in fact the EPA confirmed that in at least one FOIA Appeal determination and EPA properly classified me as an "Other" requester. Then beginning on or about December 30, 2020, EPA apparent negligent and/or fraudulent concealment scheme of the EPA federal records regarding me classified me as "Commercial" requester contradicting EPA's Official Appeal determinations that I was an "Other" after EPA

reviewed my status in the past. The EPA is using the new classification (beginning on or about December 30, 2020) calling me a "Commercial" requester to conceal the EPA's federal records regarding me and denying my rights by federal laws including FOIA and Privacy Act. This is an Official Public Liaison Dispute Request and requires a signed FOIA Public Liaison response to the 6 items disputed. This is not FOIA request questions. This is a FOIA Public Liaison Dispute Mediation Request! FOIA and Privacy Act Request EPA-2021-002747 would Confirm Who Created the False and Possibly Forged FOIA Appeal control Number EPA-2021-002054 The EPA would not respond to my emails regarding this False Appeal to change my Factual Appeal # EPA-2021-002012. The EPA created this false Appeal on January 19, 2021 and back dated this to January 15, 2021. It appears this might even be a criminal act of forgery. This so the EPA can conceal the EPA federal records regarding me that I requested on October 16, 2020 through my rights by the federal laws of FOIA and Privacy Act. OFFICIAL FOIA PUBLIC LIAISON DISPUTE MEDIATION BY 5 USC 552 CONSISTS OF THE FOLLOWING 6 (SIX) Items Provide the federal laws, regulations that give the EPA legal authority of beginning to be categorizing me as a Commercial request on or about December 30, 2020. All six dispute items must be in the FOIA Public Liaison response letter by the EPA. These items are not the FOIA request. These are disputed items in this Official FOIA Public Liaison mediation request. Provide the EPA and FOIA requirements for the phone numbers and mailing address in FOIAonline to obtain EPA records regarding the Requesters to be considered a "Other" or "Commercial" requester. That a cell phone on FOIAonline makes the requester a Commercial requester. Which are the requesters only phone number cannot used as FOIA phone number. The EPA legal authority of a FOIA requesting the EPA federal records regarding him is considered Commercial Requester. The EPA has legal authority to charge for records regarding the Requester in the EPA Privacy Act System of Records. That a FOIA and Privacy Act Requester is not entitled to the EPA federal records related to him under the FOIA and Privacy Act and the EPA must comply with federal laws, regulations, directives, policies, and procedures to provide these EPA federal records related to him. The EPA does not need to do as the EPA stated to the Department of Justice in their FOIA Annual Report that the EPA defines FOIA requests That first-party requesters should be afforded the benefit of both access provisions of the FOIA as well as those of the Privacy Act. FACTS EPA FOIA Annual Reports to the Department of Justice Did the EPA provide false statements to the Department of Justice in their EPA FOIA Annual Report with associated raw data? The EPA stated as facts to the Department of Justice (DOJ) in the EPA FOIA Annual report with associated raw data regarding EPA FOIA request including EPA processed all first-party requesters should be afforded the benefits of both access provisions of the FOIA as well as those of the Privacy Act: FOIA Request - a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a "third-party" request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., "firstparty" requests) when those requesters are not subject to the Privacy Act, such as non-U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act "systems of records" or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report. Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.) Chelmowski has been classified as an "Other" requester NOT "Commercial" from 2016 to about December 29, 2020 The EPA from my first FOIA Request in 2016 until about December 29, 2020 has categorized me as an "Other" FOIA requester. The EPA even reviewed and confirmed my classification as an "Other" requester in at least FOIA Appeal determination. On or about December 30, 2020, the EPA stating I am a "Commercial Requester" when I am filing FOIA and Privacy Act requests for the EPA records regarding me. I have always been categorized as an "Other Requester" since 2016 with the EPA this is clearly a concealment scheme by the EPA to conceal the EPA federal records regarding me. This was Just After the EPA refused to Provide a Clarification Letter with an EPA staff Member's Name on it This was just about a week or two after the EPA refused to provide the October 21, 2020 Clarification letter with an EPA name on it for FOIA/PA EPA-2021-000337. The EPA repeatedly denied providing the name of the person responsible for this letter on the letter. Then on December 17, 2020 EPA denied this Request. My fee category was "Other" for EPA-2021-000337. Now, the EPA wants to conceal these facts from my FOIA and/or Privacy Act requests by not correctly processing and providing the responsive records. So, on December 30, 2020 began outrageous fees and categorizing me as "Commercial" requester trying to obtain the EPA federal records regarding me. Clearly a concealment scheme. In October, November, and/or December 2020, the EPA appears to have decided to not produce responsive records for my FOIA and/or Privacy Act responsive records. FOIAonline signup did not request home phone numbers or home

addresses. See FOIAonline "Create a Public Account" below from the EPA's FOIAonline instructions nothing states: James Chelmowski's True Relationship with the EPA. The EPA knows the relationship with the EPA and me began in 2015. When I created an account for FOIAonline like tens of thousands other FOIAonline users per my rights as US citizen. I have my federal rights to both the FOIA and Privacy Act Request. Under both laws I have the right to EPA federal records including EPA's Privacy Act System of Records EPA-9 "FOIAonline" and the EPA communications regarding me. My relationship with the EPA is like many thousands of FOIAonline users. Those FOIAonline users and I have their/my rights to the EPA federal records related to them including but not limited to the EPA Privacy Act system of records regarding them. Summary Provide the federal laws, regulations that give the EPA legal authority of beginning to be categorizing me as a Commercial request on or about December 30, 2020. All six dispute items must be in the FOIA Public Liaison response letter by the EPA. These items are not the FOIA request. These are disputed items in this official FOIA Public Liaison mediation request. Provide the EPA and FOIA requirements for the phone numbers and mailing address in FOIAonline to obtain EPA records regarding the Requesters to be considered a "Other" or "Commercial" requester. That a cell phone on FOIAonline makes the requester a Commercial requester. Which are the requesters only phone number cannot used as FOIA phone number. The EPA legal authority of a FOIA requesting the EPA federal records regarding him is considered Commercial Requester. The EPA has legal authority to charge for records regarding the Requester in the EPA Privacy Act System of Records. That a FOIA and Privacy Act Requester is not entitled to the EPA federal records related to him under the FOIA and Privacy Act and the EPA must comply with federal laws, regulations, directives, policies, and procedures to provide these EPA federal records related to him. The EPA does not need to do as the EPA stated to the Department of Justice in their FOIA Annual Report that the EPA defines FOIA requests That first-party requesters should be afforded the benefit of both access provisions of the FOIA as well as those of the Privacy Act. Please provide response to ALL (6) six items above ASAP. Sincerely James Chelmowski FOIA and Privacy Act Request-----From: roberts.antonio@epa.gov Sent: Wednesday, February 24, 2021 4:31 PM To: (b) (6) Subject: Estimate Cost Notice EPA-2021-002747 We estimate that the cost to find responsive records will be approximately \$65.25. This estimate is based on about 0.50 of Search, and 1.25 of Review. From: foia_hq@epa.gov Sent: Wednesday, February 24, 2021 4:26 PM To: (b) (6) Cc: Buchsbaum.Seth@epa.gov Subject: EPA-2021-002747 Proposed Response and Fee Estimate - Clock Stopped for Assurance of Payment Dear Mr. Chelmowski: I hope this finds you well. Please see the attached correspondence. Best, Denise A. Walker 202-564-6520 EPA National FOIA Office

FOIA Request EPA-2021-002747 Modified

System

Mr. James
Chelmowski

03/05/2021

The FOIA request - EPA-2021-002747 has been supplemented with additional supporting files. Additional details for this item are as follows:

- Tracking Number: EPA-2021-002747
- Requester: Mr. James Chelmowski
- Submitted Date: 02/22/2021
- Description: FOIA and Privacy Act Request for the entire internal and external EPA FOIAonline Privacy Act System of records EPA-9 for FOIA/PA Request EPA-2021-000337; and FOIA Appeals EPA-2021-002012 and EPA-2021-002054.

Must include everything in FOIAonline internal and external who created the request and appeals, all notes, comment, emails, tasks ... the entire FOIAonline record. Everything associated with this request and appeals contained in FOIAonline Privacy Act System of Records EPA-9.

Therefore, EPA system manager Tim Crawford must provide a Privacy Act search of EPA-9 "FOIAonline" for ALL FOIAonline internal and external records for this FOIA request and two FOIA Appeals.

The EPA must process this request under both FOIA and Privacy Act.

The EPA stated as facts to the Department of Justice (DOJ) in the EPA FOIA Annual report with

associated raw data regarding EPA FOIA request including EPA processed all first-party FOIA as both FOIA and Privacy Act requests for greater access to records like many filed by James Chelmowski:

g. FOIA Request - a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a "third-party" request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., "firstparty" requests) when those requesters are not subject to the Privacy Act, such as non-U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act "systems of records" or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report.

Estimate Cost Notice EPA-2021-002747

Denise Walker

Mr. James
Chelmowski

02/24/2021

We estimate that the cost to find responsive records will be approximately \$65.25. This estimate is based on about 0.50 of Search, and 1.25 of Review.

FOIA Expedited Processing Disposition Reached for EPA-2021-002747

System

Mr. James
Chelmowski

03/04/2021

Your request for Expedited Processing for the FOIA request EPA-2021-002747 has been denied. Additional details for this request are as follows:

- Request Created on: 02/22/2021
- Request Description: FOIA and Privacy Act Request for all EPA FOIAonline EPA Privacy Act System of records EPA-9 for FOIA Request EPA-2021-000337; and FOIA Appeals EPA-2021-002012 and EPA-2021-002054. Therefore, EPA system manager Tim Crawford must provide a Privacy Act search of EPA-9 "FOIAonline" for ALL FOIAonline internal and external records for this FOIA request and two FOIA Appeals.

The EPA must process this request under both FOIA and Privacy Act.

The EPA stated as facts to the Department of Justice (DOJ) in the EPA FOIA Annual report with associated raw data regarding EPA FOIA request including EPA processed all first-party FOIA as both FOIA and Privacy Act requests for greater access to records like many filed by James Chelmowski:

g. FOIA Request - a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a "third-party" request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., "firstparty" requests) when those requesters are not subject to the Privacy Act, such as non-U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act "systems of records" or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report.

Additionally, a FOIA request includes records referred to the agency for processing and direct

response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.)

- Expedited Processing Original Justification: The United States Supreme Court has explained that the, "basic purpose of FOIA is to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed." The "FOIA is often explained as a means for citizens to know 'what their Government is up to.'" The Supreme Court stressed that "[t]his phrase should not be dismissed as a convenient formalism." Rather it, "defines a structural necessity in a real democracy." Any FCC delays on producing ALL these FOIA and Privacy Act responsive records should be considered by the active District Court as concealment and obstruction of material facts and evidence for the Requester to brief in active District Court case 17-cv-1394.

The Requester is currently working with a public Government Accountability website with details of personal experiences withholding the Government Accountable for their actions to the Public. As US Supreme Court states "an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed".

This FOIA request is urgent for the Public to know how the FCC complies with their mandatory duties by Federal law on FCC Public Liaison requests. The Requester will inform the Public of the FCC actions either through a website he creates or through other public pages or publications.

The Requester needs these FOIA responsive records for his Due Process in District Court letting the Public and DC. District Court know the facts on how the FCC complies with laws, regs, policy & procedures.

- Expedited Processing Disposition Reason: Please see Denial letter sent on current date.

FOIA Request EPA-2021-002747 Submitted

System

Mr. James
Chelmowski

02/22/2021

This message is to confirm your request submission to the FOIAonline application: [View Request](#). Request information is as follows:

- Tracking Number: EPA-2021-002747
- Requester Name: Mr. James Chelmowski
- Date Submitted: 02/22/2021
- Request Status: Submitted
- Description: FOIA and Privacy Act Request for all EPA FOIAonline EPA Privacy Act System of records EPA-9 for FOIA Request EPA-2021-000337; and FOIA Appeals EPA-2021-002012 and EPA-2021-002054. Therefore, EPA system manager Tim Crawford must provide a Privacy Act search of EPA-9 "FOIAonline" for ALL FOIAonline internal and external records for this FOIA request and two FOIA Appeals.

The EPA must process this request under both FOIA and Privacy Act.

The EPA stated as facts to the Department of Justice (DOJ) in the EPA FOIA Annual report with associated raw data regarding EPA FOIA request including EPA processed all first-party FOIA as both FOIA and Privacy Act requests for greater access to records like many filed by James Chelmowski:

g. FOIA Request - a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a "third-party" request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records

concerning themselves (i.e., "firstparty" requests) when those requesters are not subject to the Privacy Act, such as non-U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act "systems of records" or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report.

Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.)

Other Correspondence

Attached File	File Type	Size (MB)
(b) (5) AC	Adobe PDF Document	0.1821
Other-20210317094921-RE_ Fee Category Designation- Legal Research .pdf	Adobe PDF Document	1.2065
(b) (5) AC	Adobe PDF Document	0.5559
(b) (5) AC	Adobe PDF Document	0.1937
(b) (5) AC	Adobe PDF Document	0.2885
Other-20210317094921-Final Commercial Fee Category Assignment Letter to Requester Chelmowski 03152021 (002).pdf	Adobe PDF Document	0.4894
Other-20210224172929-Clarification Letter to Requester Chelmowski Re Fee Category 021221.pdf	Adobe PDF Document	0.5849
Other-20210304102542-EP EPA-2021-002747executed.pdf	Adobe PDF Document	0.1059

Fee Estimates

Current Estimate Total \$65.25
Date Estimate Sent to Requester 02/24/2021
Estimate Required for Payment Yes

Invoices

Sent	Title	Invoice Date	Amount
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No	EPA-2021-002747 Invoice-20210429154859180.pdf	04/29/2021	\$0.00
Yes	EPA-2021-002747 Invoice-20210429153700128.pdf	04/29/2021	\$0.00
No	EPA-2021-002747 Invoice-20210318130253346.pdf	03/18/2021	\$10.25

**Total Amount Billed Which Has
Been Sent To Requester** \$0.00

Payments

			Total Amount Paid	\$0.00
			Total Amount Owed	\$0.00
No payments have been added.				

Case Responsive Records

Publish Options:

UU - Unredacted - Unreleaseable

RU - Redacted - Unreleasable

**UR - Unredacted - Releaseable to the
General Public**

**RR - Redacted - Releasable to the General
Public**

REQ - Release to Requester Only

Release Type	Title	User	Date/Time	Exemptions	Release Date
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No records have been uploaded.

Restricted Materials

Attached File Name	Size (MB)	File Type	User	Actual Agency	Date/Time
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No restricted materials have been added.

Existing Admin Costs

Date	User Name	Charge Type	Hours/Quantity	Rate	Billable?	Total
02/24/2021	Denise Walker	Search	0.25	41.00	No	10.25

Charge Description	The request was closed because the Requester failed to provide a fee assurance. While estimated charges are valid, the requester never agreed to them.					

Fee Category: Commercial

Total: \$0.00

Invoice Amount: \$0.00

Assigned Tasks

Outcome	Task Type	Assigned To	Assigned By	Submitted Date	Due Date	Closed Date	Notification	Ju
Deny	Expedited Processing	Antonio B Roberts	Larry C Johnson	02/22/2021	03/04/2021	2021-03-04T05:00:00.000Z	No	
Requester Justification								
<p>The United States Supreme Court has explained that the, "basic purpose of FOIA is to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed." The "FOIA is often explained as a means for citizens to know 'what their Government is up to.'" The Supreme Court stressed that "[t]his phrase should not be dismissed as a convenient formalism." Rather it, "defines a structural necessity in a real democracy." Any FCC delays on producing ALL these FOIA and Privacy Act responsive records should be considered by the active District Court as concealment and obstruction of material facts and evidence for the Requester to brief in active District Court case 17-cv-1394.</p> <p>The Requester is currently working with a public Government Accountability website with details of personal experiences withholding the Government Accountable for their actions to the Public. As US Supreme Court states "an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed".</p> <p>This FOIA request is urgent for the Public to know how the FCC complies with their mandatory duties by Federal law on FCC Public Liaison requests. The Requester will inform the Public of the FCC actions either through a website he creates or through other public pages or publications.</p> <p>The Requester needs these FOIA responsive records for his Due Process in District Court letting the Public and DC. District Court know the facts on how the FCC complies with laws, regs, policy & procedures.</p>								
Decision		Please see Denial letter sent on current date.						
Other	Initial Review	Antonio B Roberts	Larry C Johnson	02/23/2021	03/02/2021	2021-02-23T05:00:00.000Z	No	
Description								
		Intake-Confer with OMS to determine if they have records responsive to this request. Assign as you determine						
Comments		Assigned to OGC-NFO-Denise Walker, clock started.						
Completed	Estimate Cost Notice	Denise Walker	Denise Walker	02/24/2021	02/24/2021	2021-02-24T22:31:00.619Z	No	
Comments								
		65.25						
Other	Concurrence	Nicole	Antonio B	03/03/2021	03/04/2021	2021-03-	No	

Pending

Rementer

Roberts

04T05:00:00.000Z

Description

Uploaded the word version and pdf for signature.

Comments

I have signed your EP letter and have loaded it up into the case file as other correspondence.
Please send the executed (signed) letter to the requester and close out the EP task. Thank you.

Approve

Case File
ReviewIan
AltendorferIan
Altendorfer

04/29/2021

04/29/2021

2021-04-
29T19:50:38.780Z

No

Comments

N/A

Completed

Final
Disposition
NoticeIan
AltendorferIan
Altendorfer

04/29/2021

04/29/2021

2021-03-
18T04:00:00.000Z

No

Comments

N/A

Existing Comments (1)

Date Created	Last Edited On	User Name
02/24/2021 03:48 PM	02/24/2021 03:48 PM	Denise Walker
Comment	Held meeting with Seth and Ian - conducted search. Discussed record locations.	

Assigned Reviewers

Review Order	Review Outcome	Assigned Reviewer	Review Date
2	Approve: Case File Review	Ian Altendorfer	TBD



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
GENERAL COUNSEL

March 18, 2021

Mr. James Chelmowski

(b) (6) (b) (6) (b) (6)
(b) (6) (b) (6)

Re: Freedom of Information Act Request No. EPA-2021-002747 Closure for Failure to Provide Fee Assurance

Dear Mr. Chelmowski,

This letter concerns the above-referenced FOIA request, received by the EPA on 02/22/2021 in which you requested:

FOIA and Privacy Act Request for all EPA FOIAonline EPA Privacy Act System of records EPA-9 for FOIA Request EPA-2021-000337; and FOIA Appeals EPA-2021-002012 and EPA-2021-002054. Therefore, EPA system manager Tim Crawford must provide a Privacy Act search of EPA-9 "FOIAonline" for ALL FOIAonline internal and external records for this FOIA request and two FOIA Appeals. The EPA must process this request under both FOIA and Privacy Act. The EPA stated as facts to the Department of Justice (DOJ) in the EPA FOIA Annual report with associated raw data regarding EPA FOIA request including EPA processed all first-party FOIA as both FOIA and Privacy Act requests for greater access to records like many filed by James Chelmowski: g. FOIA Request - a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a "third-party" request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., "firstparty" requests) when those requesters are not subject to the Privacy Act, such as non-U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act "systems of records" or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report. Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.)

Modified Description

On the same day, you submitted a modification to your request:

FOIA and Privacy Act Request for the entire internal and external EPA FOIAonline Privacy Act System of records EPA-9 for FOIA/PA Request EPA-2021-000337; and FOIA Appeals EPA-2021-002012 and EPA-2021-002054. Must include everything in FOIAonline internal and external who created the request and appeals, all notes, comment, emails, tasks ... the entire FOIAonline record. Everything associated with this request and appeals contained in FOIAonline Privacy Act System of Records EPA-9. Therefore, EPA system manager Tim Crawford must provide a Privacy Act search of EPA-9 "FOIAonline" for ALL FOIAonline internal and external records for this FOIA request and two FOIA Appeals. The EPA must process this request under both FOIA and Privacy Act. The EPA stated as facts to the Department of Justice (DOJ) in the EPA FOIA Annual report with associated raw data regarding EPA FOIA request including EPA processed all first-party FOIA as both FOIA and Privacy Act requests for greater access to records like many filed by James Chelmowski: g. FOIA Request - a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a "third-party" request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., "firstparty" requests) when those requesters are not subject to the Privacy Act, such as non-U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act "systems of records" or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report.

Proposed Response and Fee Estimate

On February 24, 2021, EPA requested a written assurance of payment of **\$65.25** to continue processing this request. In that letter, we stated: "If EPA does not receive written assurance of payment or a request for additional time within 20 calendar days of the date of this letter—by close of business on March 16, 2021, EPA will administratively close your request for failure to provide the necessary fee assurance."

We have not received a response to our request for an assurance of payment. Therefore we are closing your request.

If you have questions about this letter, you may seek assistance from EPA's FOIA Public Liaison at hq.foia@epa.gov or (202) 566-1667, or from the Office of Government Information Services (OGIS). You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi

Road, College Park, MD 20740-6001; email, ogis@nara.gov; telephone, (202) 741-5770 or (877) 684-6448; or fax, (202) 741-5769.

Sincerely,

/s/ Denise A. Walker
Denise A. Walker, Esq.
Office of General Counsel

FOIAOnline Invoice

EPA/HQ/OGC/NFO

OGC National FOIA Office
1200 Pennsylvania Ave NW
MC 2310A
Washington, DC 20460

Invoice Date

03/18/2021

Mail Payment To

USEPA, FOIA and Miscellaneous Payments, Cincinnati
Finance Center
P.O. Box 979078
St. Louis, MO 63197

**Requester Contact
Information**

James Chelmowski

(b) (6) (b) (6)

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(b) (6)

Case File Information

Tracking Number	EPA-2021-002747
Request Received On	02/22/2021
Request Received By	OGC National FOIA Office
Request Fulfilled By	Denise Walker
Requester Fee Category	Commercial

Comments / Instructions

An On-Line Payment Option is available through Department of the Treasury at <https://www.pay.gov>. Go to "Search Public Forms ", Enter "SFO 1.1." Choose " EPA Miscellaneous Payments-Cincinnati Finance Center" and follow payment instructions. Please note, payment is due within 30 days of the invoice date. Interest and late charges may apply to overdue payments.

Description	Quantity	Amount
Search	0.25	\$10.25

\$10.25 (Invoice Total)

FOIAOnline Invoice

EPA/HQ/OGC/NFO

OGC National FOIA Office
1200 Pennsylvania Ave NW
MC 2310A
Washington, DC 20460

Invoice Date

04/29/2021

Mail Payment To

USEPA, FOIA and Miscellaneous Payments, Cincinnati
Finance Center
P.O. Box 979078
St. Louis, MO 63197

**Requester Contact
Information**

James Chelmowski

(b) (6) (b) (6)

(b) (6) (b) (6)

(b) (6)

Case File Information

Tracking Number	EPA-2021-002747
Request Received On	02/22/2021
Request Received By	OGC National FOIA Office
Request Fulfilled By	Denise Walker
Requester Fee Category	Commercial

Comments / Instructions

An On-Line Payment Option is available through Department of the Treasury at <https://www.pay.gov>. Go to "Search Public Forms ", Enter "SFO 1.1." Choose " EPA Miscellaneous Payments-Cincinnati Finance Center" and follow payment instructions. Please note, payment is due within 30 days of the invoice date. Interest and late charges may apply to overdue payments.

Description	Quantity	Amount
-------------	----------	--------

\$0.00 (Invoice Total)

FOIAOnline Invoice

EPA/HQ

Headquarters
1200 Pennsylvania Ave, NW
Washington, DC 20460

Invoice Date

04/29/2021

Mail Payment To

USEPA, FOIA and Miscellaneous Payments, Cincinnati
Finance Center
P.O. Box 979078
St. Louis, MO 63197

**Requester Contact
Information**

James Chelmowski

(b) (6) (b) (6)

(b) (6) (b) (6)

(b) (6)

Case File Information

Tracking Number	EPA-2021-002747
Request Received On	02/22/2021
Request Received By	Headquarters
Request Fulfilled By	Ian Altendorfer
Requester Fee Category	Commercial

Comments / Instructions

An On-Line Payment Option is available through Department of the Treasury at <https://www.pay.gov>. Go to "Search Public Forms ", Enter "SFO 1.1." Choose " EPA Miscellaneous Payments-Cincinnati Finance Center" and follow payment instructions. Please note, payment is due within 30 days of the invoice date. Interest and late charges may apply to overdue payments.

Description**Quantity****Amount**

\$0.00 (Invoice Total)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
GENERAL COUNSEL

February 24, 2021

Mr. James Chelmowski

(b) (6), (b) (7)(A) (b) (6) (b) (7)(A), (b) (7)(A) (b) (6), (b) (7)(A)

Re: Freedom of Information Act Request No. EPA-2021-002747 Proposed Response and Fee Estimate.

Dear Mr. Chelmowski,

This letter concerns the above-referenced FOIA request, received by the EPA on 02/22/2021 in which you requested:

FOIA and Privacy Act Request for all EPA FOIAonline EPA Privacy Act System of records EPA-9 for FOIA Request EPA-2021-000337; and FOIA Appeals EPA-2021-002012 and EPA-2021-002054. Therefore, EPA system manager Tim Crawford must provide a Privacy Act search of EPA-9 "FOIAonline" for ALL FOIAonline internal and external records for this FOIA request and two FOIA Appeals. The EPA must process this request under both FOIA and Privacy Act. The EPA stated as facts to the Department of Justice (DOJ) in the EPA FOIA Annual report with associated raw data regarding EPA FOIA request including EPA processed all first-party FOIA as both FOIA and Privacy Act requests for greater access to records like many filed by James Chelmowski: g. FOIA Request - a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a "third-party" request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., "firstparty" requests) when those requesters are not subject to the Privacy Act, such as non-U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act "systems of records" or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report. Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.)

Modified Description

On the same day, you submitted a modification to your request:

FOIA and Privacy Act Request for the entire internal and external EPA FOIAonline Privacy Act System of records EPA-9 for FOIA/PA Request EPA-2021-000337; and FOIA Appeals EPA-2021-002012 and EPA-2021-002054. Must include everything in FOIAonline internal and external who created the request and appeals, all notes, comment, emails, tasks ... the entire FOIAonline record. Everything associated with this request and appeals contained in FOIAonline Privacy Act System of Records EPA-9. Therefore, EPA system manager Tim Crawford must provide a Privacy Act search of EPA-9 "FOIAonline" for ALL FOIAonline internal and external records for this FOIA request and two FOIA Appeals. The EPA must process this request under both FOIA and Privacy Act. The EPA stated as facts to the Department of Justice (DOJ) in the EPA FOIA Annual report with associated raw data regarding EPA FOIA request including EPA processed all first-party FOIA as both FOIA and Privacy Act requests for greater access to records like many filed by James Chelmowski: g. FOIA Request - a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a "third-party" request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., "firstparty" requests) when those requesters are not subject to the Privacy Act, such as non-U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act "systems of records" or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report.

Proposed Response and Fee Estimate

EPA staff will search FOIAonline for each of the requests you named (EPA-2021-000337; and FOIA Appeals EPA-2021-002012 and EPA-2021-002054), collect the casefiles, review them for any necessary redactions, and prepare a PDF of each casefile.

Using the appropriate rates contained in 40 C.F.R. § 2.107(c)(2)(i)(B), the estimated cost to process your request is approximately \$65.25. This estimate is based on about 0.50 of search, and 1.25 of review.

- This estimated fee includes
- Search: .25 managerial time and .25 professional time.
- Review: 1 hour of managerial personnel time and .25 hours of professional personnel time

In accordance with 40 C.F.R. § 2.107(e), EPA requires written assurance of payment before processing the FOIA request when the estimated fees exceed \$25.00. The clock is stopped and

EPA will do no further work on this request until you provide written assurance of payment of the anticipated total amount of **\$65.25**.

Privacy Act Requests to EPA

The Privacy Act permits you to access records about yourself that are maintained by the U.S. EPA in a Privacy Act system of records, unless the records are covered by an exemption. In addition, you may request that incorrect or incomplete information be changed or amended.

Privacy Act requests must be submitted in writing to the Privacy Officer in accordance with instructions in the Privacy Act notice. Your request must include sufficient information to allow verification of your identity. <https://www.epa.gov/privacy/submit-privacy-act-request>
If you cannot determine the applicable system of records, you may write to the EPA Privacy Officer using one of the following methods: (1) *Electronically*, via the EPA Privacy Act website at <https://www.epa.gov/privacy/forms/contact-us-about-privacy-act#officer>; (2) *U.S. Mail*, U.S. Environmental Protection Agency, Attn: Privacy Officer, 1200 Pennsylvania Avenue NW, Washington, DC 20460; or (3) *Hand Delivery/Courier Service/Overnight Delivery*: U.S. Environmental Protection Agency, Privacy Officer, Room 6408-T, 1301 Constitution Avenue NW, Washington, DC 20004.

The Privacy Officer may require you to submit a signed statement indicating that you are the individual to whom the records pertain, and that you understand it is a misdemeanor punishable by a fine up to \$5,000 to knowingly and willfully seek or obtain records about another individual under false pretenses. If you have questions about access to or amendment of Privacy Act records you may contact the Agency Privacy Officer at privacy@epa.gov or 202-566-1668.

Next Steps

EPA has stopped the processing clock for your request. It will remain stopped until you provide the written assurance of payment of **\$65.25**. If EPA does not receive written assurance of payment or a request for additional time within 20 calendar days of the date of this letter—by close of business on March 16, 2021, EPA will administratively close your request for failure to provide the necessary fee assurance.

Once EPA receives your written assurance of payment we will resume processing your FOIA request and provide you with an estimated date of completion. If you would like an opportunity to discuss the scope of your request and reformulate it to meet your needs at a lower cost, or if the proposal above will not meet your needs and you would like the opportunity to discuss and modify, please contact Denise Walker at walker.denise@epa.gov.

Additionally, you may seek assistance from EPA's FOIA Public Liaison at hq.foia@epa.gov or (202) 566-1667, or from the Office of Government Information Services (OGIS). You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road,

College Park, MD 20740-6001; email, ogis@nara.gov; telephone, (202) 741-5770 or (877) 684-6448; or fax, (202) 741-5769.

If you wish to request information connected to this request in the future, please reference the FOIA request number.

Sincerely,

/s/ Denise A. Walker
Denise A. Walker, Esq.
Office of General Counsel

EPA-2021-003738 appeal Details

Due Date: 05/13/2021 Clock Days: 20

Requester Information

Requester	Mr. James Chelmowski	Tracking Number	EPA-2021-003738
Organization		Submitted Date	04/15/2021
Requester Has Account	Yes	Business Date of Receipt	04/15/2021
Created on Behalf Of		Received Date	
Email Address	(b) (6)	Last Assigned Date	04/15/2021
Phone Number		Assigned To	Scott Albright (OGC General Law Office)
Fax Number		Last Assigned By	Matthew Schwarz (OGC General Law Office)
Address	(b) (6)	Appeal Track	
City			
State/Province			
Zip Code/Postal Code			

Original Request Information

Tracking Number	EPA-2021-002747	Request Phase	Closed
Requester	Mr. James Chelmowski	Request Track	Simple
Date Submitted	02/22/2021	Final Disposition	Fee-Related Reason
Request Description	FOIA and Privacy Act Request for all EPA FOIAonline EPA Privacy Act System of records EPA-9 for FOIA Request EPA-2021-000337; and FOIA Appeals EPA-2021-002012 and EPA-2021-002054. Therefore, EPA system manager Tim Crawford must provide a Privacy Act search of EPA-9 "FOIAonline" for ALL FOIAonline internal and external records for this FOIA request and two FOIA Appeals. The EPA must process this request under both FOIA and Privacy Act. The EPA stated as facts to the Department of Justice (DOJ) in the EPA FOIA Annual report with associated raw data regarding EPA FOIA request including EPA processed all first-party FOIA as both FOIA and Privacy Act requests for greater access to records like many filed by James Chelmowski: g. FOIA Request - a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a "third-party" request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., "firstparty" requests) when those requesters are not subject to the Privacy Act, such as non-U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act "systems of records" or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report. Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.)		

Closure Information

Closed Date	05/13/2021
Disposition	Affirmed on Appeal
"Other" Disposition	

Exemptions Used
Statutes Used
Subtypes Used

Appeal Handling

Requester Info Available to the Public	No
Appeal Track	
Fee Category	Commercial
Expedited Processing Requested	No
Expedited Processing Status	

Request Type	FOIA
Appeal Received	No
Received Date	
Acknowledgement Sent Date	04/15/2021
Litigation	No
Court Docket Number	
5 Day Notifications?	No

Basis for Appeal

Long Description

Full Appeal is attached with the following 7 arguments the EPA must decide
Argument 1 – The EPA cannot deny Chelmowski’s rights to FOIA and Privacy Act because the responsive records could expose corruption in the EPA.
Argument 2 – The EPA cannot use Excessive Fees to Discourage Request.
Argument 3 - A requester that uses a cell phone without a home phone number is not a Commercial Requester. Argument 4 – The EPA’s FOIAonline sign up does not state to provide a home address or what type of address to enter and receive correspondence from the Agency pursuant FOIA and Privacy Act. If the requester does not provide their home address the Agency treats the request as Commercial Requester for First-Party requests regarding himself so the EPA can conceal their federal records which could prove EPA corruption. Argument 5 – The EPA identified Chelmowski occupation was in the Mortgage industry, How are these EPA responsive records are being used commercially in the Mortgage industry to help Chelmowski obtain more mortgages? So the EPA can conceal first-party records in the EPA Privacy Act system of records that would expose EPA corruption. Argument 6 – The EPA must comply OMB Fee Guidelines including using the Privacy Act fee schedule for requests for First-Party Requests. Argument 7 – The EPA repeatedly told the Attorney General and the Department of Justice that the EPA processes it’s First-Party requests as both FOIA and Privacy Act to provide the greatest access of records in the EPA definition of FOIA requests.

Has Description Been Modified

No

Description Available to the Public

No

Short Description

Based on Fee Waiver

No

Based on Expedited Processing

No

Additional Information

Unusual circumstances Invoked and Due Date Extended N/A

Date Unusual Circumstances Invoked – you MUST go to EXTEND DUE DATE in LEFT-HAND NAVIGATION BAR and COMPLETE FIELDS including ESTIMATED DATE OF COMPLETION N/A

Records Locations - Identify one or more locations where records may be located N/A

Attached Supporting Files

Attachments Available to the Public?

No

Attached File Name	Size (MB)	File Type
FOIA Appeal for EPA-HQ-2021-002747.pdf	0.3553	Adobe PDF Document

Appeals

Tracking Number	Appeal Date	Appellant	Phase	Notification
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No appeals have been created.

Consultations

Tracking Number	Consulted Agency	Created By	Consultation Date	Due Date	Phase
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No consultations have been created.

Correspondence to Requester

Subject	From	To	Date
FOIA Appeals No. EPA-HQ-2021-003738	Shirley Blair	Mr. James Chelmowski	04/15/2021

April 15, 2021

Mr. James Chelmowski

(b) (6)

Re: Freedom of Information Act Appeal No. EPA-HQ-2021-003738 (Request No. EPA-HQ-2021-002747)

Dear Mr. Chelmowski:

This letter is being sent to acknowledge receipt of your Freedom of Information Act Appeal received by the Agency on April 15, 2021. Your appeal is being assigned to an attorney in the Office of General Counsel for processing. If you have a question regarding the status of your appeal, please contact me at blair.shirley@epa.gov so that I may assist you.

Sincerely,

Shirley Blair

Program Assistant

General Law Office

Office of General Counsel

FOIA Appeal EPA-2021-003738 Modified

System

Mr. James Chelmowski

04/15/2021

The FOIA appeal - EPA-2021-003738 description has been modified. Additional details for this item are as follows:

- Tracking Number: EPA-2021-003738
- Requester: Mr. James Chelmowski
- Submitted Date: 04/15/2021
- Description: Full Appeal is attached with the following 7 arguments the EPA must decide

Argument 1 – The EPA cannot deny Chelmowski’s rights to FOIA and Privacy Act because the responsive records could expose corruption in the EPA.

Argument 2 – The EPA cannot use Excessive Fees to Discourage Request.

Argument 3 - A requester that uses a cell phone without a home phone number is not a Commercial Requester.

Argument 4 – The EPA’s FOIAonline sign up does not state to provide a home address or what type of address to enter and receive correspondence from the Agency pursuant FOIA and Privacy Act. If the requester does not provide their home address the Agency treats the request as Commercial Requester for First-Party requests regarding himself so the EPA can conceal their federal records which could prove EPA corruption.

Argument 5 – The EPA identified Chelmowski occupation was in the Mortgage industry, How are these EPA responsive records are being used commercially in the Mortgage industry to help Chelmowski obtain more mortgages? So the EPA can conceal first-party records in the EPA Privacy Act system of records that would expose EPA corruption.

Argument 6 – The EPA must comply OMB Fee Guidelines including using the Privacy Act fee schedule for requests for First-Party Requests.

Argument 7 – The EPA repeatedly told the Attorney General and the Department of Justice that the EPA processes it’s First-Party requests as both FOIA and Privacy Act to provide the greatest access of records in the EPA definition of FOIA requests.

FOIA Appeal EPA-2021-003738 Submitted

System

Mr. James Chelmowski

04/15/2021

This message is to notify you of a new appeal submission to the FOIAonline application. Appeal information is as follows:

- Appeal Tracking Number: EPA-2021-003738
- Request Tracking Number: EPA-2021-002747
- Requester Name: James Chelmowski
- Date Submitted: 04/15/2021
- Appeal Status: Submitted
- Description: Full Appeal is attached with the following 7 arguments the EPA must decide

Argument 1 – The EPA cannot deny Chelmowski’s rights to FOIA and Privacy Act because the responsive records could expose corruption in the EPA.

Argument 2 – The EPA cannot use Excessive Fees to Discourage Request.

Argument 3 - A requester that uses a cell phone without a home phone number is not a Commercial Requester.

Argument 4 – The EPA’s FOIAonline sign up does not state to provide a home address or what type of address to enter and receive correspondence from the Agency pursuant FOIA and Privacy Act. If the requester does not provide their home address the Agency treats the request as Commercial Requester for First-Party requests regarding himself so the EPA can conceal their federal records which could prove EPA corruption.

Argument 5 – The EPA identified Chelmowski occupation was in the Mortgage industry, How are these EPA responsive records are being used commercially in the Mortgage industry to help Chelmowski obtain more mortgages? So the EPA can conceal first-party records in the EPA Privacy Act system of records that would expose EPA corruption.

Argument 6 – The EPA must comply OMB Fee Guidelines including using the Privacy Act fee schedule for requests for First-Party Requests.

Argument 7 – The EPA repeatedly told the Attorney General and the Department of Justice that the EPA processes it’s First-Party requests as both FOIA and Privacy Act to provide the greatest access of records in the EPA definition of FOIA requests.

Final Disposition, Request EPA-2021-003738	Scott Albright	Mr. James Chelmowski	05/13/2021
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EPA-2021-003738 has been processed with the following final disposition: Affirmed on Appeal.
[appeal.decision.2021.003738.Chelmowski.pdf](#)

FOIA Appeal EPA-2021-003738 Modified	System	Mr. James Chelmowski	05/13/2021
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The FOIA appeal - EPA-2021-003738 has been supplemented with additional supporting files. Additional details for this item are as follows:

- Tracking Number: EPA-2021-003738
- Requester: Mr. James Chelmowski
- Submitted Date: 04/15/2021
- Description: Full Appeal is attached with the following 7 arguments the EPA must decide

Argument 1 – The EPA cannot deny Chelmowski's rights to FOIA and Privacy Act because the responsive records could expose corruption in the EPA.

Argument 2 – The EPA cannot use Excessive Fees to Discourage Request.

Argument 3 - A requester that uses a cell phone without a home phone number is not a Commercial Requester.

Argument 4 – The EPA's FOIAonline sign up does not state to provide a home address or what type of address to enter and receive correspondence from the Agency pursuant FOIA and Privacy Act. If the requester does not provide their home address the Agency treats the request as Commercial Requester for First-Party requests regarding himself so the EPA can conceal their federal records which could prove EPA corruption.

Argument 5 – The EPA identified Chelmowski occupation was in the Mortgage industry, How are these EPA responsive records are being used commercially in the Mortgage industry to help Chelmowski obtain more mortgages? So the EPA can conceal first-party records in the EPA Privacy Act system of records that would expose EPA corruption.

Argument 6 – The EPA must comply OMB Fee Guidelines including using the Privacy Act fee schedule for requests for First-Party Requests.

Argument 7 – The EPA repeatedly told the Attorney General and the Department of Justice that the EPA processes it's First-Party requests as both FOIA and Privacy Act to provide the greatest access of records in the EPA definition of FOIA requests.

Other Correspondence

Attached File	File Type	Size (MB)
No correspondence has been created.		

Fee Estimates

Current Estimate Total	\$0
Date Estimate Sent to Requester	N/A
Estimate Required for Payment	N/A

Invoices

Sent	Title	Invoice Date	Amount
No	EPA-2021-003738 Invoice-20210513173054480.pdf	05/13/2021	\$0.00

Total Amount Billed Which Has Been Sent To Requester	\$0.00
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Payments

Date	Amount	Type	Total Amount Paid	\$0.00
			Total Amount Owed	\$0.00
No payments have been added.				

Case Responsive Records

Publish Options:

UU - Unredacted - Unreleaseable

RU - Redacted - Unreleasable

**UR - Unredacted - Releaseable to the
General Public**

**RR - Redacted - Releasable to the General
Public**

REQ - Release to Requester Only

Release Type	Title	User	Date/Time	Exemptions	Release Date
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No records have been uploaded.

Restricted Materials

Attached File Name	Size (MB)	File Type	User	Actual Agency	Date/Time
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No restricted materials have been added.

Existing Admin Costs

Date	User Name	Charge Type	Hours/Quantity	Rate	Billable?	Total
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No cost entries have been added.

Fee Category: Commercial

Total: \$0.00

Invoice Amount: \$0.00

Outcome	Task Type	Assigned To	Assigned By	Submitted Date	Due Date	Closed Date	Notification	Justification
Completed	Final Disposition Notice	Scott Albright	Scott Albright	05/13/2021	05/13/2021	2021-05-13T21:32:40.816Z	No	
Comments	N/A							

Existing Comments (0)

Date Created	Last Edited On	User Name
No comments have been added.		

Assigned Reviewers

Review Order	Review Outcome	Assigned Reviewer	Review Date
No reviewers have been assigned.			

FOIAOnline Invoice

EPA/HQ/OGC/IEP

OGC General Law Office
1200 Pennsylvania Ave, NW
Washington, DC 20460

Invoice Date

05/13/2021

Mail Payment To

USEPA, FOIA and Miscellaneous Payments, Cincinnati
Finance Center
P.O. Box 979078
St. Louis, MO 63197

**Requester Contact
Information**

James Chelmowski

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Case File Information

Tracking Number	EPA-2021-003738
Request Received On	04/15/2021
Request Received By	OGC General Law Office
Request Fulfilled By	Scott Albright
Requester Fee Category	Commercial

Comments / Instructions

An On-Line Payment Option is available through Department of the Treasury at <https://www.pay.gov>. Go to "Search Public Forms ", Enter "SFO 1.1." Choose " EPA Miscellaneous Payments-Cincinnati Finance Center" and follow payment instructions. Please note, payment is due within 30 days of the invoice date. Interest and late charges may apply to overdue payments.

Description**Quantity****Amount**

\$0.00 (Invoice Total)

EPA-2021-003847 appeal Details

Due Date: 05/14/2021 Clock Days: 5

Requester Information

Requester	Mr. James Chelmowski	Tracking Number	EPA-2021-003847
Organization		Submitted Date	04/16/2021
Requester Has Account	Yes	Business Date of Receipt	04/16/2021
Created on Behalf Of		Received Date	
Email Address	(b) (6)	Last Assigned Date	04/23/2021
Phone Number		Assigned To	Ian Altendorfer (Headquarters)
Fax Number		Last Assigned By	Ian Altendorfer (Headquarters)
Address	(b) (6)	Appeal Track	
City			
State/Province			
Zip Code/Postal Code			

Original Request Information

Tracking Number	EPA-2021-001511	Request Phase	Closed
Requester	Mr. James Chelmowski	Request Track	Complex
Date Submitted	12/18/2020	Final Disposition	Fee-Related Reason
Request Description	<p>This is both a Privacy Act 5 USC 552a and FOIA Request 5 USC 552. For all Timothy Epp (all email accounts he uses for EPA business) that contained "Chelmowski" (the FOIA and Privacy Act requester's name) in the subject line, email body, attachment, email metadata from January 1, 2017 and later of the date of this search and December 18, 2020. The emails must include emails that Timothy Epp was the sender, one of the recipients and emails Timothy Epps was copied (cc or bcc) as one of the recipients with the Microsoft Office 365 eDiscovery search and Relativity software certifications and records count. The Search must include the EPA's FOIA centralized search using the Microsoft Office 365 eDiscovery search terms are of course "Chelmowski" to or from all Timothy Epp's email address including but not limited to Epp.Timothy@epa.gov. It is public knowledge that the EPA staff uses multiple email accounts for Federal business (i.e. Federal Records), which are not disclosed to the public. See EPA details of the EPA FOIA Searching procedures and requirements for emails in the attached supporting files "1- EPA's FOIA Procedures"; "2- EPA's Staff Logs Confirmation of EPA FOIA search procedures using of Microsoft eDiscovery "; "3 - Microsoft Office 365 - eDiscovery"; "4 - Microsoft Office 365 - Search for content"; "5 - Microsoft Office 365 - legal investigation (eDiscovery) "; "6 - EPA FOIA response letter confirming the EPA uses of Microsoft Office 365"; "7 - EPA Policy on Mobile and Portable Devices, and Records" The EPA's FOIA procedures (1- EPA's FOIA Procedures") on page 32 to 34 states the EPA's procedure for using the Microsoft Office 365 e-discovery for Outlook email, Outlook calendars, & Skype/Lync chats. This EPA's FOIA procedure includes a link to a document on the EPA server called "http://intranet.epa.gov/ediscovery/MSOutlookEmailSearch/ "</p>		

Closure Information

Closed Date	04/23/2021
Disposition	Closed for Other
Reasons	
"Other" Disposition	Moot

Exemptions Used
Statutes Used
Subtypes Used

Appeal Handling

Requester Info Available to the Public	No
Appeal Track	
Fee Category	Commercial
Expedited Processing Requested	No
Expedited Processing Status	

Request Type	FOIA
Appeal Received	No
Received Date	
Acknowledgement Sent Date	
Litigation	No
Court Docket Number	
5 Day Notifications?	No

Basis for Appeal

Long Description**Has Description Been Modified****Long Description Modified**

Appealing disposition of request.

Yes

This is a Forgery Appeal apparently filed by the EPA - Not filed by James Chelmowski. Chelmowski will be requesting a full investigation for this Fraudulent Appeal #EPA-2021-003847 with the EPA Inspector General. The Factual Appeal is EPA-2021-003738 see Factual arguments below: Full Appeal is attached with the following 7 arguments the EPA must decide Argument 1 – The EPA cannot deny Chelmowski’s rights to FOIA and Privacy Act because the responsive records could expose corruption in the EPA. Argument 2 – The EPA cannot use Excessive Fees to Discourage Request. Argument 3 - A requester that uses a cell phone without a home phone number is not a Commercial Requester. Argument 4 – The EPA’s FOIAonline sign up does not state to provide a home address or what type of address to enter and receive correspondence from the Agency pursuant FOIA and Privacy Act. If the requester does not provide their home address the Agency treats the request as Commercial Requester for First-Party requests regarding himself so the EPA can conceal their federal records which could prove EPA corruption. Argument 5 – The EPA identified Chelmowski occupation was in the Mortgage industry, How are these EPA responsive records are being used commercially in the Mortgage industry to help Chelmowski obtain more mortgages? So the EPA can conceal first-party records in the EPA Privacy Act system of records that would expose EPA corruption. Argument 6 – The EPA must comply OMB Fee Guidelines including using the Privacy Act fee schedule for requests for First-Party Requests. Argument 7 – The EPA repeatedly told the Attorney General and the Department of Justice that the EPA processes it’s First-Party requests as both FOIA and Privacy Act to provide the greatest access of records in the EPA definition of FOIA requests.

Description Available to the Public**Short Description****Based on Fee Waiver****Based on Expedited Processing**

No

No

No

Additional Information

Unusual circumstances Invoked and Due Date Extended N/A

Date Unusual Circumstances Invoked – you MUST go to EXTEND DUE DATE in LEFT-HAND NAVIGATION BAR and COMPLETE FIELDS including ESTIMATED DATE OF COMPLETION N/A

Records Locations - Identify one or more locations where records may be located N/A

Attached Supporting Files

Attachments Available to the
Public?
No

Attached File Name	Size (MB)	File Type
Appeal of EPA-2021-001511 Email.docx	0.0171	Microsoft Word 2007

Appeals

Tracking Number	Appeal Date	Appellant	Phase	Notification
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No appeals have been created.

Consultations

Tracking Number	Consulted Agency	Created By	Consultation Date	Due Date	Phase
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No consultations have been created.

Correspondence to Requester

Subject	From	To	Date
Close Out_EPA-2021-003847 (Request No. EPA-2021-001511)	Ian Altendorfer	Mr. James Chelmowski	04/23/2021

Good morning,

Please see the attached letter.

Sincerely,

EPA's National FOIA Office

Executed_EPA-2021-003847 (Appeal).pdf

FOIA Appeals No. EPA-HQ-2021-003847	Shirley Blair	Mr. James Chelmowski	04/21/2021
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April 21, 2021

Mr. James Chelmowski

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Re: Freedom of Information Act Appeal No. EPA-HQ-2021-003847 (Request No. EPA-HQ-2021-001511)

Dear Mr. Chelmowski:

This letter is being sent to acknowledge receipt of your Freedom of Information Act Appeal received by the Agency on April 16, 2021. Your appeal is being assigned to an attorney in the Office of General Counsel for processing. If you have a question regarding the status of your appeal, please contact me at blair.shirley@epa.gov so that I may assist you.

Sincerely,

Shirley Blair

Program Assistant

General Law Office

Office of General Counsel

FOIA Appeal EPA-2021-003847 Modified	System	Mr. James Chelmowski	04/21/2021
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The FOIA appeal - EPA-2021-003847 has been supplemented with additional supporting files. Additional details for this item are as follows:

- Tracking Number: EPA-2021-003847
- Requester: Mr. James Chelmowski
- Submitted Date: 04/21/2021
- Description: Appealing disposition of request.

Final Disposition, Request EPA-2021-003847	Ian Altendorfer	Mr. James Chelmowski	04/23/2021
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EPA-2021-003847 has been processed with the following final disposition: Closed for Other Reasons.

Other Correspondence

Attached File	File Type	Size (MB)
No correspondence has been created.		

Fee Estimates

Current Estimate Total	\$0
Date Estimate Sent to Requester	N/A
Estimate Required for Payment	N/A

Invoices

Sent	Title	Invoice Date	Amount
No	EPA-2021-003847 Invoice-20210423111414457.pdf	04/23/2021	\$0.00

Total Amount Billed Which Has Been Sent To Requester	\$0.00
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Payments

Date	Amount	Type	Total Amount Paid	\$0.00
			Total Amount Owed	\$0.00
No payments have been added.				

Case Responsive Records

Publish Options:

UU - Unredacted - Unreleaseable

RU - Redacted - Unreleasable

**UR - Unredacted - Releaseable to the
General Public**

**RR - Redacted - Releasable to the General
Public**

REQ - Release to Requester Only

Release Type	Title	User	Date/Time	Exemptions	Release Date
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No records have been uploaded.

Restricted Materials

Attached File Name	Size (MB)	File Type	User	Actual Agency	Date/Time
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No restricted materials have been added.

Existing Admin Costs

Date	User Name	Charge Type	Hours/Quantity	Rate	Billable?	Total
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No cost entries have been added.

Fee Category: Commercial

Total: \$0.00

Invoice Amount: \$0.00

Outcome	Task Type	Assigned To	Assigned By	Submitted Date	Due Date	Closed Date	Notification	Jus
Approve	Case File Review	Ian Altendorfer	Ian Altendorfer	04/23/2021	04/23/2021	2021-04-23T15:14:49.242Z	No	
Comments		N/A						
Completed	Final Disposition Notice	Ian Altendorfer	Ian Altendorfer	04/23/2021	04/23/2021	2021-04-23T15:15:41.879Z	No	
Comments		N/A						

Existing Comments (0)

Date Created	Last Edited On	User Name
No comments have been added.		

Assigned Reviewers

Review Order	Review Outcome	Assigned Reviewer	Review Date
1	Approve: Case File Review	Ian Altendorfer	TBD

FOIAOnline Invoice

EPA/HQ

Headquarters
1200 Pennsylvania Ave, NW
Washington, DC 20460

Invoice Date

04/23/2021

Mail Payment To

USEPA, FOIA and Miscellaneous Payments, Cincinnati
Finance Center
P.O. Box 979078
St. Louis, MO 63197

**Requester Contact
Information**

James Chelmowski

(b) (6)

(b) (6)

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(b) (6)

Case File Information

Tracking Number	EPA-2021-003847
Request Received On	04/16/2021
Request Received By	Headquarters
Request Fulfilled By	Ian Altendorfer
Requester Fee Category	Commercial

Comments / Instructions

An On-Line Payment Option is available through Department of the Treasury at <https://www.pay.gov>. Go to "Search Public Forms ", Enter "SFO 1.1." Choose " EPA Miscellaneous Payments-Cincinnati Finance Center" and follow payment instructions. Please note, payment is due within 30 days of the invoice date. Interest and late charges may apply to overdue payments.

Description**Quantity****Amount**

\$0.00 (Invoice Total)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
GENERAL COUNSEL

March 31, 2021

Mr. James Chelmowski

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(b) (6) (b) (6)

**Re: Freedom of Information Act Request No. EPA-HQ-2021-0001511
Proposed Response and Fee Estimate.**

Dear Mr. Chelmowski,

This letter concerns the above-referenced FOIA request, received by the EPA on December 21, 2020 in which you requested:

Request for the following: This is both a Privacy Act 5 USC 552a and FOIA Request 5 USC 552. For all Timothy Epp (all email accounts he uses for EPA business) that contained "Chelmowski" (the FOIA and Privacy Act requester's name) in the subject line, email body, attachment, email metadata from January 1, 2017 to the later of the date of this search and December 18, 2020. The emails must include emails that Timothy Epp was the sender, one of the recipients and emails Timothy Epps was copied (cc or bcc) as one of the recipients with the Microsoft Office 365 eDiscovery search Certification and Relativity software certifications and records count. The Search must include the EPA's FOIA centralized search using the Microsoft Office 365 eDiscovery search terms are of course "Chelmowski" to or from all Timothy Epp's email address including but not limited to Epp.Timothy@epa.gov. It is public knowledge that the EPA staff uses multiple email accounts for Federal business (i.e. Federal Records), which are not disclosed to the public.

See EPA details of the EPA FOIA Searching procedures and requirements for emails in the attached supporting files :

- 1- EPA's FOIA Procedures
- 2- EPA's Staff Logs Confirmation of EPA FOIA search procedures using of Microsoft eDiscovery
- 3 – Microsoft Office 365 – eDiscovery
- 4 – Microsoft Office 365 – Search for content
- 5 – Microsoft Office 365 - legal investigation (eDiscovery)

6 – EPA FOIA response letter confirming the EPA uses of Microsoft Office 365

7 – EPA Policy on Mobile and Portable Devices, and Records The EPA's FOIA procedures (1- EPA's FOIA Procedures") on page 32 to 34 states the EPA's procedure for using the Microsoft Office 365 e-discovery for Outlook email, Outlook calendars, & Skype/Lync chats. This EPA's FOIA procedure includes a link to a document on the EPA server called <http://intranet.epa.gov/ediscovery/MSOutlookEmailSearch/>

8- DOJ Handbook for Agency Annual FOIA Reports FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., "first-party" requests) ... all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act "systems of records" or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access.

9 – EPA FOIA Annual Report 2018

10 – EPA FOIA Annual Report 2019

DOJ Handbook requirement for Agency include the following: g. FOIA Request .. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., "first-party" requests) ... all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act "systems of records" or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report. Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.)

Proposed Response and Fee Estimate

You have been placed in the commercial fee category, which means you will be charged for search, review, and duplication costs in accordance with the Agency's regulations under 40 C.F.R. Part 2, Subpart A. EPA has estimated that the aggregate fees to process your request will be **\$830.00**.

EPA initiated an electronic email records search of relevant EPA custodians. Based on preliminary search results, the electronic email records search returned an estimated 1,133 records. Please note, subject-matter experts in the eDiscovery Division caution that preliminary search results can be 2-3 times larger once collection and processing efforts are complete. EPA

expects to search other EPA records systems in response to your request, but for purposes of this fee estimate, the preliminary collection of 1,133 records was used for the following calculations, using the appropriate rates contained in 40 C.F.R. § 2.107(c)(2)(i)(B):

Search (Estimated): \$376.50

Review (Estimated): \$453.50

Total Fees Estimated: \$376.50 + \$453.50 = \$830.00

Pursuant to 40 C.F.R. § 2.107(e), EPA requires written assurance of payment before processing the FOIA request when the estimated fees exceed \$25.00. EPA will do no further work on this request until you provide written assurance of payment of the anticipated total amount of **\$830.00**.

Privacy Act Requests to EPA

The Privacy Act permits you to access records about yourself that are maintained by the U.S. EPA in a Privacy Act system of records, unless the records are covered by an exemption. In addition, you may request that incorrect or incomplete information be changed or amended.

Privacy Act requests must be submitted in writing to the Privacy Officer in accordance with instructions in the Privacy Act notice. Your request must include sufficient information to allow verification of your identity. <https://www.epa.gov/privacy/submit-privacy-act-request>
If you cannot determine the applicable system of records, you may write to the EPA Privacy Officer using one of the following methods: (1) *Electronically*, via the EPA Privacy Act website at <https://www.epa.gov/privacy/forms/contact-us-about-privacy-act#officer>; (2) *U.S. Mail*, U.S. Environmental Protection Agency, Attn: Privacy Officer, 1200 Pennsylvania Avenue NW, Washington, DC 20460; or (3) *Hand Delivery/Courier Service/Overnight Delivery*: U.S. Environmental Protection Agency, Privacy Officer, Room 6408-T, 1301 Constitution Avenue NW, Washington, DC 20004.

The Privacy Officer may require you to submit a signed statement indicating that you are the individual to whom the records pertain, and that you understand it is a misdemeanor punishable by a fine up to \$5,000 to knowingly and willfully seek or obtain records about another individual under false pretenses. If you have questions about access to or amendment of Privacy Act records you may contact the Agency Privacy Officer at privacy@epa.gov or 202-566-1668.

Next Steps

EPA has stopped the processing clock for your request. It will remain stopped until you provide the written assurance of payment **\$830.00**. If EPA does not receive written assurance of payment or a request for additional time within 20 calendar days of the date of this letter—by close of

business on **April 20, 2021**—EPA will administratively close your request for failure to provide the necessary fee assurance.

Once EPA receives your written assurance of payment we will resume processing your FOIA request and provide you with an estimated date of completion. If you would like an opportunity to discuss the scope of your request and reformulate it to meet your needs at a lower cost, or if the proposal above will not meet your needs and you would like the opportunity to discuss and modify, please contact Denise Walker at walker.denise@epa.gov.

Additionally, you may seek assistance from EPA's FOIA Public Liaison at hq.foia@epa.gov or (202) 566-1667, or from the Office of Government Information Services (OGIS). You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, MD 20740-6001; email, ogis@nara.gov; telephone, (202) 741-5770 or (877) 684-6448; or fax, (202) 741-5769.

If you wish to request information connected to this request in the future, please reference the FOIA request number, EPA-2021-001511.

Sincerely,

/s/

Nicole M. Rementer
Acting Assistant General Counsel
National FOIA Office

FOIA & Privacy Act Request FCC-2021-002747

Date of Request: February 22, 2020

FOIA and Privacy Act Requester: James Chelmowski

FCC FOIA Control Number FCC-2021-002747

FCC has used the same control number for their Privacy Act Search control number.

Request for the following:

FOIA and Privacy Act Request for the entire internal and external EPA FOIAonline Privacy Act System of records EPA-9 for FOIA/PA Request EPA-2021-000337; and FOIA Appeals EPA-2021-002012 and EPA-2021-002054.

Must include everything in FOIAonline internal and external who created the request and appeals, all notes, comment, emails, tasks ... the entire FOIAonline record. Everything associated with this request and appeals contained in FOIAonline Privacy Act System of Records EPA-9.

Therefore, EPA system manager Tim Crawford must provide a Privacy Act search of EPA-9 "FOIAonline" for ALL FOIAonline internal and external records for this FOIA request and two FOIA Appeals.

The EPA must process this request under both FOIA and Privacy Act.

The EPA stated as facts to the Department of Justice (DOJ) in the EPA FOIA Annual report with associated raw data regarding EPA FOIA request including EPA processed all first-party FOIA as both FOIA and Privacy Act requests for greater access to records like many filed by James Chelmowski: The EPA stated as facts to the Department of Justice (DOJ) in the EPA FOIA Annual report with associated raw data regarding EPA FOIA request including EPA processed all first-party FOIA as both FOIA and Privacy Act requests for greater access to records like many filed by James Chelmowski:

g. FOIA Request - a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a "third-party" request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., "firstparty" requests) when those requesters are not subject to the Privacy Act, such as non-U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act "systems of records" or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report.

Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.)

Expedition needed.

The United States Supreme Court has explained that the, "basic purpose of FOIA is to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed." The "FOIA is often explained as a means for citizens to know 'what their Government is up to.'" The Supreme Court stressed that "[t]his phrase should not be dismissed as a convenient formalism." Rather it, "defines a structural necessity in a real democracy." Any FCC delays on producing ALL these FOIA and Privacy Act responsive records should be considered by the active District Court as concealment and obstruction of material facts and evidence for the Requester to brief in active District Court case 17-cv-1394.

The Requester is currently working with a public Government Accountability website with details of personal experiences withholding the Government Accountable for their actions to the Public. As US Supreme Court states "an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed".

This FOIA request is urgent for the Public to know how the FCC complies with their mandatory duties by Federal law on FCC Public Liaison requests. The Requester will inform the Public of the FCC actions either through a website he creates or through other public pages or publications.

The Requester needs these FOIA responsive records for his Due Process in District Court letting the Public and DC. District Court know the facts on how the FCC complies with laws, regs, policy & procedures.

FOIA & Privacy Act Request FCC-2021-002747

Date of Request: February 22, 2020

FOIA and Privacy Act Requester: James Chelmowski

FCC FOIA Control Number FCC-2021-002747

FCC has used the same control number for their Privacy Act Search control number.

Request for the following:

FOIA and Privacy Act Request for all EPA FOIAonline EPA Privacy Act System of records EPA-9 for FOIA Request EPA-2021-000337; and FOIA Appeals EPA-2021-002012 and EPA-2021-002054. Therefore, EPA system manager Tim Crawford must provide a Privacy Act search of EPA-9 "FOIAonline" for ALL FOIAonline internal and external records for this FOIA request and two FOIA Appeals.

The EPA must process this request under both FOIA and Privacy Act.

The EPA stated as facts to the Department of Justice (DOJ) in the EPA FOIA Annual report with associated raw data regarding EPA FOIA request including EPA processed all first-party FOIA as both FOIA and Privacy Act requests for greater access to records like many filed by James Chelmowski:

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This FOIA request is urgent for the Public to know how the FCC complies with their mandatory duties by Federal law on FCC Public Liaison requests. The Requester will inform the Public of the FCC actions either through a website he creates or through other public pages or publications.

The Requester needs these FOIA responsive records for his Due Process in District Court letting the Public and DC. District Court know the facts on how the FCC complies with laws, regs, policy & procedures.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
GENERAL COUNSEL

March 15, 2021

Mr. James Chelmowski

(b) (6)

Re: Fee category for Freedom of Information Act (FOIA) requests: Commercial.

EPA-2021-002747
EPA-2021-001511
EPA-2021-001305
EPA-2021-001196
EPA-2021-000819
EPA-HQ-2019-000736

Dear Mr. Chelmowski:

This letter concerns the above-referenced FOIA requests, received by the U.S. Environmental Protection Agency (EPA or Agency).

Fee Category and Fees

EPA's [FOIA Regulations](#) state the following:

§2.107 Fees.

(a) *In general.* The Agency will charge for processing requests under the FOIA in accordance with paragraph (c) of this section, except where fees are limited under paragraph (d) of this section or where a waiver or reduction of fees is granted under paragraph (l) of this section. Requesters will pay fees by check or money order made payable to the U.S. Environmental Protection Agency.

(b) *Definitions.* For purposes of this section:

(1) Commercial use request means a request from or on behalf of a person who seeks information for a use or purpose that furthers the requester's commercial, trade, or profit interests, which can include furthering those interests through litigation. The Agency will determine, whenever reasonably possible, the use to which a requester will put the

requested records. When it appears that the requester will put the records to a commercial use, either because of the nature of the request itself or because the Agency has reasonable cause to doubt a requester's stated use, the Agency will provide the requester a reasonable opportunity to submit further clarification.

(j) *Advance payments.* (1) For requests other than those described in paragraphs (j)(2) and (3) of this section, the Agency will not require the requester to make an advance payment (that is, a payment made before EPA begins or continues work on a request). Payment owed for work already completed (that is, a prepayment before the Agency sends copies to a requester) is not an advance payment.

(2) When the Agency determines or estimates that a total fee to be charged under this section will be more than \$250.00, it may require the requester to make an advance payment of an amount up to the amount of the entire anticipated fee before beginning to process the request, except when it receives a satisfactory assurance of full payment from a requester that has a history of prompt payment.

Beginning around December 2020, I began reviewing your requests. I reviewed each of the currently open requests and many of the past requests that you have submitted to the Agency. I concluded the EPA has inconsistently charged you processing fees.

Based on the information that I was able to obtain from public sources, the National FOIA Office made a preliminary determination that you should be categorized as a commercial requester because you are seeking the information through these requests for “a use or purpose that furthers the requester's commercial, trade, or profit interests, which can include furthering those interests through litigation.”

February 12, 2021 Letter from EPA

I outlined the rationale for my conclusion in the February 12, 2021 letter to you, *RE: Fee category for Freedom of Information Act (FOIA) requests: Clock Stopped for Fees. Please submit further clarification.*” In that letter, I also provided you with the opportunity to submit further clarification by March 4, 2021.

March 3, 2021 Response from James Chelmowski

On March 3, 2021, you wrote to the Chief FOIA Officer, the National FOIA Office, and me. Your correspondence covered multiple topics, and I have included the full response as an appendix, however, the pertinent parts for purposes of further clarification regarding the appropriate fee category are below:

This is my required response by the EPA and EPA Denise Walker in her February 12, 2021 letter, that EPA legal authority to require this response by March 4, 2021.

The EPA attorneys Scott Albright and Kevin Miller reviewed requests and confirmed that I was an “Other” fee category beginning in 2018. This only changed on December 17, 2020 the day the EPA Denise Walker provided a full denial on FOIA and Privacy Act request # EPA-2021-000337 (EPA has not provide me the Privacy Act control number) for the EPA federal records regarding alleged EPA FOIA and Privacy

Act searches on my FOIA and Privacy Act Requests.

I will update this response as soon as either EPA FOIA Public Liaison Timothy Epp and/or EPA Chief FOIA Officer Melissa Hoffer provide responses to ALL 6 items in my Official FOIA Public Liaison Request would help decide my fee category to my rights pursuant to federal laws of FOIA and Privacy Act.

As you and the EPA know, **prior to December 17, 2020 EPA classified me as an "Other" Requester including "first-party" FOIA and Privacy Act requests, this "Commercial" classification change came within an hour of the December 17, 2020 EPA Denise Walker full denial of FOIA Request EPA-2021-000337 Response for the EPA communications regarding the EPA alleged FOIA and Privacy Act searches. The EPA Denise Walker full denial of the October 16, 2021 FOIA and Privacy Act request EPA-2021-000337 for the EPA communications regarding the EPA's alleged FOIA and Privacy Act searches, she minutes before categorized me as "Other" fee category. Then within an hour the EPA and Denise Walker changed my FOIA Fee Category from "Other" to "Commercial".**

Your clarification correspondence also included the following information farther down. For the sake of completeness, I will include it here.

Chelmowski has been classified as an "Other" requester NOT "Commercial" from 2016 to about December 29, 2020

The EPA from my first FOIA Request in 2016 until about December 29, 2020 has categorized me as an "Other" FOIA requester. The EPA even reviewed and confirmed my classification as an "Other" requester in at least FOIA Appeal determination.

On or about December 30, 2020, the EPA stating I am a "Commercial Requester" when I am filing FOIA and Privacy Act requests for the EPA records regarding me.

I have always been categorized as an "Other Requester" since 2016 with the EPA this is clearly a concealment scheme by the EPA to conceal the EPA federal records regarding me.

This was Just After the EPA refused to Provide a Clarification Letter with an EPA staff Member's Name on it

This was just about a week or two after the EPA refused to provide the October 21, 2020 Clarification letter with an EPA name on it for FOIA/PA EPA-2021-000337. The EPA repeatedly denied providing the name of the person responsible for this letter on the letter. Then on December 17, 2020 EPA denied this Request. My fee category was "Other" for EPA-2021-000337.

Now, the EPA wants to conceal these facts from my FOIA and/or Privacy Act requests by not correctly processing and providing the responsive records. So, on December 30, 2020 began outrageous fees and categorizing me as "Commercial" requester trying to obtain the EPA federal records regarding me. Clearly a concealment scheme.

In October, November, and/or December 2020, the EPA appears to have decided to not produce responsive records for my FOIA and/or Privacy Act responsive records.

FOIAonline signup did not request home phone numbers or home addresses.

See FOIAonline "Create a Public Account" below from the EPA's FOIAonline instructions nothing states:

James Chelmowski's True Relationship with the EPA

The EPA knows the relationship with the EPA and me began in 2015. When I created an account for FOIAonline like tens of thousands other FOIAonline users per my rights as US citizen.

I have my federal rights to both the FOIA and Privacy Act Request. Under both laws I have the right to EPA federal records including EPA's Privacy Act System of Records EPA-9 "FOIAonline" and the EPA communications regarding me.

My relationship with the EPA is like many thousands of FOIAonline users. Those FOIAonline users and I have their/my rights to the EPA federal records related to them including but not limited to the EPA Privacy Act system of records regarding them.

Analysis of Information Provided by the Requester on March 3, 2021

The Agency carefully reviewed your response to the March 3, 2021 request for clarification letter.

Any facts, background, or information as to your use or purpose of the information sought in the above-mentioned requests is absent from your March 3, 2021 clarification letter. Your clarification statement essentially states that you have been classified as “other” for fees in the past and thus should be classified as “other” in the future. While your requests have indeed been classified as “other” previously that does not demonstrate that an “other” classification was correct in the past or is correct now.

- You do not refute that the information you seek to obtain through these requests will further a business interest of yours.
- You have not provided any information to suggest that the litigation your requests seek to support does not serve to further a business interest of yours.

You also suggest that the EPA is purposefully concealing information from you. While we do find the volume of emails and somewhat unintelligible correspondence challenging to respond to, especially when you refuse to speak to us about your requests, the EPA National FOIA Office has no interest in and is not intentionally concealing anything from you.

EPA does, however, have an interest in upholding our obligation to properly charge fees for FOIA work. While EPA will not retroactively assess fees for the prior requests, we must properly assess fees going forward.

EPA Concludes That the Correct Fee Category for These FOIA Requests is Commercial
You will be assessed fees at the commercial rate for all remaining unbilled processing work.

My conclusion that you will put the records sought through the above FOIA requests to a commercial use is based on the following information:

1) Your Listed Address is a Business Address

The address associated with your requests, [REDACTED] (b) (6), (b) (6) is a commercial building and not a private residence.

2) The Phone Number at the Heart of Your Litigation Disputes is Affiliated with your Commercial Interests.

A Google search revealed that you have a blog available online: <https://activerain.com/blogs/jimchelmowski>. The blog is entitled “Jim Chelmowski's (jimchelmowski) Blog”

This blog is associated with you and real estate postings from 2011 but does not appear to be active. The phone number listed on the blog is: “O: (847) 768-0000.” The “O:” preceding the phone number is commonly used to label a phone number as an office phone number.

Based on publicly available administrative and litigation records including the *Chelmowski v. ATT* Complaint to the FCC, and *James Chelmowski v. AT&T Mobility*, No. 18-1082 (7th Cir. 2019), the (847) 768-0000 vanity phone number listed on your blog is at the heart of a long-standing dispute between you and AT&T that evolved into a dispute with the FCC and now

NARA and the EPA. It appears that you wished for this (847) 768- 0000 number to forward to (b) (6). In order to obtain documents to support your litigation in furtherance of your commercial objectives, you have been filing Freedom of Information Act Requests. The Northern District Court of Illinois, also cited by the 7th Circuit, explains the connection as follows:

Having lost his repeated attempts to sue AT&T over the dispute about his cellphone number, Chelmowski turned to another tactic. He served Freedom of Information Act ("FOIA") requests on the Federal Communications Commission seeking any documents related to him or his dispute with AT&T. He then filed two lawsuits in the District of Columbia complaining about the government's FOIA responses and used these suits as vehicles for serving third-party subpoenas on AT&T entities. Litigation over compliance with the subpoenas occurred in the Northern District of Illinois. Judge Sharon Coleman denied Chelmowski's motion to enforce several of these subpoenas, ruling that he had "not shown any basis in law or in fact for this [c]ourt to allow the request" to "compel discovery from a third-party, AT&T." (citing Minute Entry, *Chelmowski v. FCC*, No. 1:16-cv-5587 (N.D. Ill. Aug. 24, 2016), ECF No. 24.

James Chelmowski v. AT&T Mobility, No. 18-1082 (7th Cir. 2019) available at: <https://law.justia.com/cases/federal/appellate-courts/ca7/18-1082/18-1082-2019-01-09.html>

Based on the office number posted on Jim Chelmowski's (jimchelmowski) Blog, the office phone number and commercial address provided in above-mentioned FOIA requests, and litigation history associated with this phone number, the EPA National FOIA Office believes that all 72 of the FOIA requests and appeals you have submitted to the agency from 2017 to present, seek records to support what the 7th Circuit Court of Appeals characterized as a "never-ending, groundless vendetta over the failed "porting" of your cell-phone number."

3. You Have Repeatedly Stated that You Need the EPA To Respond to Your EPA FOIA Requests in Order to Prepare Filings in Court for Civil Action No. 17-1394.

You have sent the Agency numerous emails stating that your FOIA requests are essentially discovery for a pending litigation. The litigation is Civil Action No. 17-1394, which is tied to your previous disputes with AT&T and your cell phone number. For example, the subject line of the following email message to Agency officials is "RE: Notice of the EPA knowledge of potential Obstructing, negligently concealment, fraudulent concealment, ethic violations, intentional torts, etc. with active DDC 17-cv-1394 which Chelmowski needs to brief with obstructed and concealed knowledge.":

From: (b) (6) <(b) (6)>
Sent: Wednesday, February 3, 2021 12:19 PM
To: Crawford, Tim <Crawford.Tim@epa.gov>; McGuire, Cathy <McGuire.Cathy@epa.gov>; Roberts, Antonio <Roberts.Antonio@epa.gov>; Sabbagh, Bill <sabbagh.bill@epa.gov>; Sanderson, Bobby <sanderson.bobby@epa.gov>; Kelly, Lee <Kelly.Lee@epa.gov>; McKinney, Robert <mckinney.robert@epa.gov>; Earle, Judy <Earle.Judy@epa.gov>; Green, LindaE <Green.LindaE@epa.gov>; Rementer, Nicole <rementer.nicole@epa.gov>; Albright, Scott <Albright.Scott@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Blair, Shirley <Blair.Shirley@epa.gov>; Bossard, Justin <bossard.justin@epa.gov>; Kaminer, Joan

<Kaminer.Joan@epa.gov>; Altendorfer, Ian <Altendorfer.Ian@epa.gov>; Perrin, Michael <Perrin.Michael@epa.gov>; Hill, Kevin <hill.kevin@epa.gov>; Stilp, Mark <Stilp.Mark@epa.gov>; Kerwin, Courtney <Kerwin.Courtney@epa.gov>; Spears, Rasheena <spears.rasheena@epa.gov>; Pickell, Casey <pickell.casey@epa.gov>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>; Nishida, Jane <Nishida.Jane@epa.gov>; Packard, Elise <Packard.Elise@epa.gov>; Christofel, Dave <Christofel.David@epa.gov>; Levine, Scott <Levine.Scott@epa.gov>

Cc: OIP.ComplianceInquiry@usdoj.gov

Subject: RE: Notice of the EPA knowledge of potential Obstructing, negligently concealment, fraudulent concealment, ethic violations, intentional torts, etc. with active DDC 17-cv-1394 which Chelmowski needs to brief with obstructed and concealed knowledge

Importance: High

Dear Robert McKinney, Judy Earle and all EPA staff and attorneys including all EPA involved with any of my FOIA and Privacy Act Requests.

I am still waiting for all my past due FOIA and/or Privacy Act requests and appeals. Please immediately provide all past due requests and dates the EPA will finally comply with their mandatory duties.

Please all recipients confirm receipt in case this needs to be a record of the Court Because the EPA denies receipt of many of my emails. I need all EPA recipients to confirm Read Receipt in case these communications need to go to Court.

EPA and all it's staff are required to perform their mandatory duties by federal law, regulations, directives, policies and procedures.

This email will confirm this Notice to the EPA Attorneys and Staff to Notify Judge James Boasberg of your firsthand knowledge of material facts in the FOIA before this Court being concealed by the EPA, and any attorney ethic violations and/or EPA ethic violations.

As the EPA knows, I needed to request another extension because the EPA is obstructing, and/or negligently concealing, and/or fraudulently concealing these FOIA and/or Privacy Act responsive records.

U.S. District Court

District of Columbia

Notice of Electronic Filing

The following transaction was entered on 2/1/2021 at 1:51 PM EDT and filed on 2/1/2021

Case Name: CHELMOWSKI v. UNITED STATES OF AMERICA

Case Number: 1:17-cv-01394-JEB

Filer:

Document Number: No document attached

Docket Text:

MINUTE ORDER GRANTING Plaintiff's [77] Motion for Extension of Time. The Court ORDERS that: 1) Plaintiff shall file his Opposition and any Cross-Motion for Summary Judgment by February 8, 2021; 2) Defendants shall file their combined Reply and any Opposition by March 8, 2021; and 3) Plaintiff shall file any Reply by

April 8, 2021. The Court further ORDERS that Plaintiff's [76] Motion for Extension of Time is DENIED as superseded. So ORDERED by Judge James E. Boasberg on 2/1/2021. (lcjeb1)

I conclude that the FOIA litigation with EPA, Civil Action No. 17-1394, is tied to the ongoing cell phone number vendetta, because EPA-HQ-2017-008255 is one of the requests that is the subject of your litigation, and sought EPA's processing records related to "*Chelmowski v. FCC*, No.16 cv 5587 (N.D. Ill)."

Description See attached file for complete FOIA/PA request I am requesting ALL EPA responsive records pursuant to both FOIA 5 USC 552 and Privacy Act 5 USC 552a regarding me the Requestor James Chelmowski. Search Period: 5/1/16 to 6/9/17

Description of Records Sought: EPA communication records including internal and external emails, phone & meeting logs, notes, correspondence, etc. during the search period related to the requester James Chelmowski (search with all name permutations such as Chelmowski, Mr. Chelmowski, James Chelmowski & Jim Chelmowski, etc.) and including searches on misspellings like the ones NARA used Chelmowsky, Chelmoski and all communications internal and external emails, logs, notes correspondence, etc. related to my EPA FOIA requests EPA-HQ-2016-009708, EPA-HQ-2017-005390 (all abbreviations like EPA-HQ-2016-9708, EPA-HQ-2017-9708) and all communications internal and external emails, logs, notes, correspondence, etc. associated with *Chelmowski v. FCC*, No. 16 c 5587 (N.D. Ill) & May 2016 District Court Subpoena EPA never responded to (see attached). Privacy Act/FOIA search must include internal and external emails, notes, conversation & meeting logs and correspondence databases Including Office of General Counsel (database) and Office of Environmental Information (database); EPA- 22 "Correspondence Management System (CMS)";EPA-9 "FOIA Requests and Appeal Files" and all non-published email and/or correspondence databases. Plus, any other EPA email systems (including but not limited to the mandate central email system of records which mandated all agencies must implement on or before 12/31/16). Include any request for communications deletions or archives for records regarding me. Must include but not limited to individual emails, notes, logs & correspondence to and from Mark Stilp,Larry Gottesman,Judy Earle,Kevin Minoli,Elise Packard,Justin Schwab,David Fotouhi,Richard Albores,Wendy Schumacher, Judith Lewis and any other EPA staff,.

Your communications to the Agency indicate that your currently open FOIA requests are essentially discovery for your pending litigation in Civil Action No. 17-1394. In fact, since January 4, 2021, the National FOIA Office email inbox received twelve e-mail messages from you (b) (6) about your open FOIA requests that either refer to or reference Civil Action No. 17-1394.

Per EPA FOIA Regulations, the National FOIA Office concludes that you "will put the records requested [in each of the requests above] to a commercial use, either because of the nature of the request itself or because the Agency has reasonable cause to doubt your stated use." Specifically, EPA has reason to believe that you are seeking the information to support litigation related to your commercial

interests.

Clocks Remained Stopped for Fee Discussions

For each request, the Agency will or has provided you with a Fee Estimate at the commercial rate for the remaining work to be completed. The clocks will remain stopped until you provide assurance of payment (agree to the charges).

The agency will evaluate any new requests you submit on a case-by-case basis for the appropriate fee category.

If you have any questions about the contents of this letter, please contact Denise A. Walker at walker.denise@epa.gov or by phone at (202) 564-6520.

As stated above, you may seek assistance from EPA's FOIA Public Liaison at hq.foia@epa.gov or call (202) 566-1667. You may also seek assistance from (OGIS). You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001; email: ogis@nara.gov; telephone: (202) 741-5770 or (877)684-6448; or fax: (202) 741-5769.

Sincerely,

/s/ Denise A. Walker
Denise A. Walker, Esq.
Office of General Counsel

APPENDIX A:

From: Walker, Denise

Sent: Thursday, March 4, 2021 10:17 AM

To: (b) (6) FOIA HQ <FOIA_HQ@epa.gov>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>

Cc: OIP.ComplianceInquiry@usdoj.gov; ogis@nara.gov; Epp, Timothy <Epp.Timothy@epa.gov>

Subject: RE: This is my Timely Required Response by the EPA and Denise Walker - Re: EPA Commercial Fee demands for Records Regarding me by the EPA and still Waiting for my Rights Required by the EPA pursuant 5 USC 552(l) Public Liaison written response to the 6 it

Dear Mr. Chelmowski:

Thank you for providing the response to my letter (Re: Fee category for Freedom of Information Act (FOIA) requests: Clock Stopped for Fees. Please submit further clarification. Dated February 12, 2021) below.

The National FOIA Office will review and consider your submission and send you a follow-up letter within 2 weeks.

Our FOIA Public Liaison, Mr. Epp, has offered to meet with you or to identify another supervisor for you to meet with to assist you with your concerns. I have copied him on this response.

If you would like to call to arrange a time to meet, either Tim or I are happy to speak to you. You may Also Call OGIS at 202-741-5770.

Best,

Denise A. Walker
202-564-6520

From: (b) (6) <(b) (6)>

Sent: Wednesday, March 3, 2021 5:14 PM

To: FOIA HQ <FOIA_HQ@epa.gov>; Walker, Denise <Walker.Denise@epa.gov>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>

Cc: OIP.ComplianceInquiry@usdoj.gov; ogis@nara.gov

Subject: This is my Timely Required Response by the EPA and Denise Walker - Re: EPA Commercial Fee demands for Records Regarding me by the EPA and still Waiting for my Rights Required by the EPA pursuant 5 USC 552(l) Public Liaison written response to the 6 items

Importance: High

Dear EPA FOIA Office, EPA Denise Walker, and EPA Chief FOIA Officer Melissa Hoffer.

Please confirm receipt of this timely response or I will email this every few hours until I received writing confirmation of this timely response and when I will be receiving my rights pursuant FOIA law 5 USC 552(l) because of the EPA deadline of March 4, 2021 and the EPA & EPA FOIA Public Liaison Timothy Epp are denying my rights pursuant to federal law.

As EPA Denise Walker February 12, 2021 letter states "As stated above, you may seek assistance from EPA's FOIA Public Liaison" which I did and sent repeated emails for Public Liaison response for 6 items in writing which Timothy Epp has not responded to the 6 items yet. Ms. Walker and EPA have been recipients of these emails and are included and further documented after this email.

Therefore, I am still waiting for my rights as Ms. Walker stated on February 12, 2021 and pursuant to Federal law 5 USC 552(l) for the EPA provide response to my written response regarding the 6 issues in my Official FOIA Public Liaison request (see email Chain).

This is my required response by the EPA and EPA Denise Walker in her February 12, 2021 letter, that EPA legal authority to require this response by March 4, 2021.

The EPA attorneys Scott Albright and Kevin Miller reviewed requests and confirmed that I was an "Other" fee category beginning in 2018. This only changed on December 17, 2020 the day the EPA Denise Walker provided a full denial on FOIA and Privacy Act request # EPA-2021-000337 (EPA has not provide me the Privacy Act control number) for the EPA federal records regarding alleged EPA FOIA and Privacy

Act searches on my FOIA and Privacy Act Requests.

I will update this response as soon as either EPA FOIA Public Liaison Timothy Epp and/or EPA Chief FOIA Officer Melissa Hoffer provide responses to ALL 6 items in my Official FOIA Public Liaison Request would help decide my fee category to my rights pursuant to federal laws of FOIA and Privacy Act.

As you and the EPA know, prior to December 17, 2020 EPA classified me as an "Other" Requester including "first-party" FOIA and Privacy Act requests, this "Commercial" classification change came within an hour of the December 17, 2020 EPA Denise Walker full denial of FOIA Request EPA-2021-000337 Response for the EPA communications regarding the EPA alleged FOIA and Privacy Act searches. The EPA Denise Walker full denial of the October 16, 2021 FOIA and Privacy Act request EPA-2021-000337 for the EPA communications regarding the EPA's alleged FOIA and Privacy Act searches, she minutes before categorized me as "Other" fee category. Then within an hour the EPA and Denise Walker changed my FOIA Fee Category from "Other" to "Commercial".

As you and EPA know, my FOIA Public Liaison Request that must be addressed include the following items in writing.

Provide the federal laws, regulations that give the EPA legal authority of beginning to be categorizing me as a Commercial request on or about December 30, 2020. All six dispute items must be in the FOIA Public Liaison response letter by the EPA. These items are not the FOIA request. These are disputed items in this Official FOIA Public Liaison mediation request.

1. Provide the EPA and FOIA requirements for the phone numbers and mailing address in FOIAonline to obtain EPA records regarding the Requesters to be considered a "Other" or "Commercial" requester.
2. That a cell phone on FOIAonline makes the requester a Commercial requester. Which are the requesters only phone number cannot used as FOIA phone number.
3. The EPA legal authority of a FOIA requesting the EPA federal records regarding him is considered Commercial Requester.
4. The EPA has legal authority to charge for records regarding the Requester in the EPA Privacy Act System of Records.
5. That a FOIA and Privacy Act Requester is not entitled to the EPA federal records related to him under the FOIA and Privacy Act and the EPA must comply with federal laws, regulations, directives, policies, and procedures to provide these EPA federal records related to him.
6. The EPA does not need to do as the EPA stated to the Department of Justice in their FOIA Annual Report that the EPA defines FOIA requests That first party requesters should be afforded the benefit of both access provisions of the FOIA as well as those of the Privacy Act.

Please explain in detail exactly what needs to be negotiated in these 6 items by March 4, 2021.

With ALL YOUR QUESTIONS ON EXACTLY WHAT YOU NEED TO NEGOTIATION IN WRITNG.

Please confirm in writing the receipt of this email meeting the EPA and Denise Walker's deadline.

Provide me the date the EPA FOIA Public Liaison will provide response in writing to each of these 6 items in my FOIA Public Liaison request which the Federal laws and you confirmed that I have this right.

Sincerely,

James Chelmowski

FOIA and Privacy Act Requester

FOIA Public Liaison Request

FOIA Public Liaison Request

From: (b) (6) <(b) (6)>

Sent: Tuesday, March 2, 2021 7:53 AM

To: 'Epp, Timothy' <Epp.Timothy@epa.gov>; 'foia@fcc.gov' <foia@fcc.gov>; 'Roberts, Antonio' <Roberts.Antonio@epa.gov>; 'Walker, Denise' <Walker.Denise@epa.gov>; 'National Privacy Program' <privacy@epa.gov>; 'Crawford, Tim' <Crawford.Tim@epa.gov>; 'Hoffer, Melissa' <Hoffer.Melissa@epa.gov>; 'Nishida, Jane' <Nishida.Jane@epa.gov>; 'Packard, Elise' <Packard.Elise@epa.gov>

Cc: 'OIP.ComplianceInquiry@usdoj.gov' <OIP.ComplianceInquiry@usdoj.gov>; 'ogis@nara.gov' <

ogis@nara.gov>

Subject: RE: Official FOIA Public Liaison mediation request with 6 items in dispute - These are not FOIA request questions. This is a FOIA Public Liaison Dispute Mediation Request!

Importance: High

Dear EPA's FOIA Public Liaison Timothy Epp and the EPA's Chief FOIA Officer Melissa Hoffer.

This email stops the tolling on all FOIA and Privacy Act requests with the EPA. The EPA must comply with FOIA federal law and my right to FOIA Public Liaison Request on these 6 items. 5 USC 552(I). The EPA Chief FOIA Officer has responsibility of the EPA Public Liaison.

Please explain in detail exactly what needs to be negotiated in these 6 items by March 4, 2021.

With ALL YOUR QUESTIONS ON EXACTLY WHAT YOU NEED TO NEGOTIATION IN WRITNG.

You can easily put exact details of what you want to negotiate in writing of the 6 items unless you do not want a documented history of the TRUE Facts. So, you and the EPA want to provide false statements.

I look forward to the details of exactly what needs to be negotiated or the EPA FOIA Public Liaison response to ALL 6 items by March 4, 2021 in writing.

As you know and documented on April 25, 2019 that the EPA has my preference of communications through emails not phone calls so communication would be documented in writing. You also sent your April 25, 2019 email to the EPA Administrator Andrew Wheeler and EPA General Counsel & EPA Chief FOIA Officer Matthew Leopold to document this email and my preference as a fact with the EPA. You have that email and is a Federal Record with the EPA. Your April 25, 2019 email to me is an official EPA federal record in the EPA email system and should be also stored in the EPA Privacy Act System of Records EPA-22 Correspondence Management System.

You repeatedly demand ONLY phone calls after April 25, 2019. I repeatedly request everything in writing which you repeatedly refuse. Which proves why all communications between the EPA and I MUST BE in writing. Which is documented as fact in the EPA federal record of your April 25, 2019 email to Andrew Wheeler, Matthew Leopold and me.

Therefore, in writing. What Exactly needs to be Negotiated?

I am not Congress and I have no legal authority to create new Federal Laws. So, I cannot negotiate federal laws with the EPA.

I am not the EPA who stated alleged facts to the Department of Justice (DOJ) and Attorney General (AG) on how they processed the EPA first party FOIA requests. 5 USC 552(e). So, I cannot negotiate what the EPA stated as alleged facts to the DOJ and AG with the EPA.

Which the EPA repeatedly stated as fact to the DOJ and AG that firstparty requesters should be afforded the benefit of both access provisions of the FOIA as well as those of the Privacy Act.

Please explain in detail exactly what needs to be negotiated with me in these 6 items. Put ALL YOUR QUESTIONS ON EXACTLY WHAT YOU NEED TO NEGOTIATION IN WRITNG.

OFFICIAL FOIA PUBLIC LIAISON DISPUTE MEDIATION BY 5 USC 552 CONSISTS OF THE FOLLOWING 6 (SIX) Items as follows:

Provide the federal laws, regulations that give the EPA legal authority of beginning to be categorizing me as a Commercial request on or about December 30, 2020. All six dispute items must be in the FOIA Public Liaison response letter by the EPA. These items are not the FOIA request. These are disputed items in this Official FOIA Public Liaison mediation request.

Provide the EPA and FOIA requirements for the phone numbers and mailing address in FOIAonline to obtain EPA records regarding the Requesters to be considered a "Other" or "Commercial" requester. That a cell phone on FOIAonline makes the requester a Commercial requester. Which are the requesters only phone number cannot used as FOIA phone number.

The EPA legal authority of a FOIA requesting the EPA federal records regarding him is considered Commercial Requester.

The EPA has legal authority to charge for records regarding the Requester in the EPA Privacy Act System of Records.

That a FOIA and Privacy Act Requester is not entitled to the EPA federal records related to him under the FOIA and Privacy Act and the EPA must comply with federal laws, regulations, directives, policies, and procedures to provide these EPA federal records related to him.

The EPA does not need to do as the EPA stated to the Department of Justice in their FOIA Annual Report that the EPA defines FOIA requests That first party requesters should be afforded the benefit of both access provisions of the FOIA as well as those of the Privacy Act.

Please explain in detail exactly what needs to be negotiated in these 6 items by March 4, 2021.

With ALL YOUR QUESTIONS ON EXACTLY WHAT YOU NEED TO NEGOTIATION IN WRITNG.

You can easily put exact details of what you want to negotiate in writing of the 6 items unless you do not want a documented history of the TRUE Facts. So, you and the EPA want to provide false statements.

I look forward to the details of exactly what needs to be negotiated or the EPA FOIA Public Liaison response to ALL 6 items by March 4, 2021 in writing.

Sincerely,

James Chelmowski

FOIA and Privacy Act Requester

From: Epp, Timothy <Epp.Timothy@epa.gov>

Sent: Monday, March 1, 2021 10:32 AM

To: (b) (6) <foia@fcc.gov>; Roberts, Antonio <Roberts.Antonio@epa.gov>; Walker, Denise <Walker.Denise@epa.gov>; National Privacy Program <privacy@epa.gov>; Crawford, Tim <Crawford.Tim@epa.gov>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>; Nishida, Jane <Nishida.Jane@epa.gov>; Packard, Elise <Packard.Elise@epa.gov>

Cc: OIP.ComplianceInquiry@usdoj.gov; ogis@nara.gov

Subject: RE: Official FOIA Public Liaison mediation request with 6 items in dispute - These are not FOIA request questions. This is a FOIA Public Liaison Dispute Mediation Request!

Dear Mr. Chelmowski,

Thank you for reaching out to request EPA's FOIA Public Liaison mediation services in connection with your disputes identified in your email copied below. Please provide several times you would be available for a telephone call this week along with your telephone number. If you want, I can have another EPA supervisor talk with you to serve as EPA's Public Liaison on this matter.

Please note that the FOIA does not require EPA to answer your questions; it only requires release of records (subject to certain limitations) in response to a proper request under the FOIA. The Public Liaison provisions of the FOIA do not entitle requesters to demand answers to their questions. The Public Liaison service is a dispute resolution service through which we apply interest-based negotiation methods and techniques to attempt to resolve disputes outside of litigation. Because the Public Liaison service is an interest-based negotiation process designed to explore opportunities for mutually agreeable resolution, neither EPA nor you will be bound until agreement is reached. Any agreement reached through the negotiation process would be documented in writing and you will be in full control of whether to agree to the written terms of the agreement. The process of exploring opportunities for consensual resolution does not need to be in writing –indeed, demanding that it be conducted in writing can chill the open and frank communication needed for interest-based negotiation and exploration of potential options for agreement.

I look forward to talking with you regarding your interests in an effort to find a mutually agreeable resolution to your concerns.

Tim

Timothy R. Epp

Associate General Counsel|[National FOIA Office](mailto:National.FOIA@epa.gov)

U.S. Environmental Protection Agency | Office of General Counsel

1200 Pennsylvania Avenue, N.W. (MC 2310A)

Washington, D.C. 20460 | WJCN 7309B

Phone (202) 564-2830 | epp.timothy@epa.gov

From: (b) (6) <(b) (6)>

Sent: Monday, March 01, 2021 9:59 AM

To: Epp, Timothy <Epp.Timothy@epa.gov>; foia@fcc.gov; Roberts, Antonio <Roberts.Antonio@epa.gov>; Walker, Denise <Walker.Denise@epa.gov>; National Privacy Program <privacy@epa.gov>; Crawford, Tim <Crawford.Tim@epa.gov>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>; Nishida, Jane <Nishida.Jane@epa.gov>; Packard, Elise <Packard.Elise@epa.gov>

Cc: OIP.ComplianceInquiry@usdoj.gov; ogis@nara.gov

Subject: Official FOIA Public Liaison mediation request with 6 items in dispute - These are not FOIA request questions. This is a FOIA Public Liaison Dispute Mediation Request!

Importance: High

Dear EPA, EPA's FOIA Public Liaison, and EPA's Chief FOIA Officer.

I am not a Commercial requester in fact the EPA confirmed that in at least one FOIA Appeal determination and EPA properly classified me as an "Other" requester. Then beginning on or about December 30, 2020, EPA apparent negligent and/or fraudulent concealment scheme of the EPA federal records regarding me classified me as "Commercial" requester contradicting EPA's Official Appeal determinations that I was an "Other" after EPA reviewed my status in the past. The EPA is using the new classification (beginning on or about December 30, 2020) calling me a "Commercial" requester to conceal the EPA's federal records regarding me and denying my rights by federal laws including FOIA and Privacy Act.

This is an Official Public Liaison Dispute Request and requires a signed FOIA Public Liaison response to the 6 items disputed. This is not FOIA request questions. This is a FOIA Public Liaison Dispute Mediation Request!

FOIA and Privacy Act Request EPA-2021-002747 would Confirm Who Created the False and Possibly Forged FOIA Appeal control Number EPA-2021-002054

The EPA would not respond to my emails regarding this False Appeal to change my Factual Appeal # EPA-2021-002012.

The EPA created this false Appeal on January 19, 2021 and back dated this to January 15, 2021. It appears this might even be a criminal act of forgery. This so the EPA can conceal the EPA federal records regarding me that I requested on October 16, 2020 through my rights by the federal laws of FOIA and Privacy Act.

OFFICIAL FOIA PUBLIC LIAISON DISPUTE MEDIATION BY 5 USC 552 CONSISTS OF THE FOLLOWING 6 (SIX) Items

Provide the federal laws, regulations that give the EPA legal authority of beginning to be categorizing me as a Commercial request on or about December 30, 2020. All six dispute items must be in the FOIA Public Liaison response letter by the EPA. These items are not the FOIA request. These are disputed items in this Official FOIA Public Liaison mediation request.

Provide the EPA and FOIA requirements for the phone numbers and mailing address in FOIAonline to obtain EPA records regarding the Requesters to be considered a "Other" or "Commercial" requester. That a cell phone on FOIAonline makes the requester a Commercial requester. Which are the requesters only phone number cannot used as FOIA phone number.

The EPA legal authority of a FOIA requesting the EPA federal records regarding him is considered Commercial Requester.

The EPA has legal authority to charge for records regarding the Requester in the EPA Privacy Act System of Records.

That a FOIA and Privacy Act Requester is not entitled to the EPA federal records related to him under the FOIA and Privacy Act and the EPA must comply with federal laws, regulations, directives, policies, and procedures to provide these EPA federal records related to him.

The EPA does not need to do as the EPA stated to the Department of Justice in their FOIA Annual Report that the EPA defines FOIA requests That first-party requesters should be afforded the benefit of both access provisions of the FOIA as well as those of the Privacy Act.

FACTS

EPA FOIA Annual Reports to the Department of Justice

Did the EPA provide false statements to the Department of Justice in their EPA FOIA Annual Report with associated raw date?

The EPA stated as facts to the Department of Justice (DOJ) in the EPA FOIA Annual report with associated raw data regarding EPA FOIA request including EPA processed all firstparty requesters should be afforded the benefits of both access provisions of the FOIA as well as those of the Privacy Act: FOIA Request a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a "thirdparty" request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., "firstparty" requests) when those requesters are not subject to the Privacy Act, such as nonU.S. citizens. Moreover, because all firstparty requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any firstparty requests where an agency determines that it must search beyond its Privacy Act "systems of records" or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report.

Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.)

Chelmowski has been classified as an "Other" requester NOT "Commercial" from 2016 to about December 29, 2020

The EPA from my first FOIA Request in 2016 until about December 29, 2020 has categorized me as an "Other" FOIA requester. The EPA even reviewed and confirmed my classification as an "Other" requester in at least FOIA Appeal determination.

On or about December 30, 2020, the EPA stating I am a "Commercial Requester" when I am filing FOIA and Privacy Act requests for the EPA records regarding me.

I have always been categorized as an "Other Requester" since 2016 with the EPA this is clearly a concealment scheme by the EPA to conceal the EPA federal records regarding me.

This was Just After the EPA refused to Provide a Clarification Letter with an EPA staff Member's Name on it

This was just about a week or two after the EPA refused to provide the October 21, 2020 Clarification letter with an EPA name on it for FOIA/PA EPA-2021-000337. The EPA repeatedly denied providing the name of the person responsible for this letter on the letter. Then on December 17, 2020 EPA denied this Request. My fee category was "Other" for EPA-2021-000337.

Now, the EPA wants to conceal these facts from my FOIA and/or Privacy Act requests by not correctly processing and providing the responsive records. So, on December 30, 2020 began outrageous fees and categorizing me as "Commercial" requester trying to obtain the EPA federal records regarding me. Clearly a concealment scheme.

In October, November, and/or December 2020, the EPA appears to have decided to not produce responsive records for my FOIA and/or Privacy Act responsive records.

FOIAonline signup did not request home phone numbers or home addresses.

See FOIAonline "Create a Public Account" below from the EPA's FOIAonline instructions nothing states:

James Chelmowski's True Relationship with the EPA

The EPA knows the relationship with the EPA and me began in 2015. When I created an account for FOIAonline like tens of thousands other FOIAonline users per my rights as US citizen.

I have my federal rights to both the FOIA and Privacy Act Request. Under both laws I have the right to EPA federal records including EPA's Privacy Act System of Records EPA-9 "FOIAonline" and the EPA communications regarding me.

My relationship with the EPA is like many thousands of FOIAonline users. Those FOIAonline users and I have their/my rights to the EPA federal records related to them including but not limited to the EPA Privacy Act system of records regarding them.

Summary

Provide the federal laws, regulations that give the EPA legal authority of beginning to be categorizing me as a Commercial request on or about December 30, 2020. All six dispute items must be in the FOIA Public Liaison response letter by the EPA. These items are not the FOIA request. These are disputed items in this official FOIA Public Liaison mediation request.

Provide the EPA and FOIA requirements for the phone numbers and mailing address in FOIAonline to

obtain EPA records regarding the Requesters to be considered a "Other" or "Commercial" requester. That a cell phone on FOIAonline makes the requester a Commercial requester. Which are the requesters only phone number cannot used as FOIA phone number.

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That a FOIA and Privacy Act Requester is not entitled to the EPA federal records related to him under the FOIA and Privacy Act and the EPA must comply with federal laws, regulations, directives, policies, and procedures to provide these EPA federal records related to him.

The EPA does not need to do as the EPA stated to the Department of Justice in their FOIA Annual Report that the EPA defines FOIA requests That first-party requesters should be afforded the benefit of both access provisions of the FOIA as well as those of the Privacy Act.

Please provide response to ALL (6) six items above ASAP.

Sincerely

James Chelmowski

FOIA and Privacy Act Request

From: roberts.antonio@epa.gov <roberts.antonio@epa.gov>

Sent: Wednesday, February 24, 2021 4:31 PM

To: (b) (6)

Subject: Estimate Cost Notice EPA-2021-002747

We estimate that the cost to find responsive records will be approximately \$65.25. This estimate is based on about 0.50 of Search, and 1.25 of Review.

From: foia_hq@epa.gov <foia_hq@epa.gov>

Sent: Wednesday, February 24, 2021 4:26 PM

To: (b) (6)

Cc: Buchsbaum.Seth@epa.gov

Subject: EPA-2021-002747 Proposed Response and Fee Estimate - Clock Stopped for Assurance of Payment

Dear Mr. Chelmowski:

I hope this finds you well.

Please see the attached correspondence.

Best,

Denise A. Walker

202-564-6520

EPA National FOIA Office



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
GENERAL COUNSEL

March 15, 2021

Mr. James Chelmowski

(b) (6) (b) (6) (b) (6)
(b) (6) (b) (6)

Re: Fee category for Freedom of Information Act (FOIA) requests: Commercial.

EPA-2021-002747
EPA-2021-001511
EPA-2021-001305
EPA-2021-001196
EPA-2021-000819
EPA-HQ-2019-000736

Dear Mr. Chelmowski:

This letter concerns the above-referenced FOIA requests, received by the U.S. Environmental Protection Agency (EPA or Agency).

Fee Category and Fees

EPA's [FOIA Regulations](#) state the following:

§2.107 Fees.

(a) *In general.* The Agency will charge for processing requests under the FOIA in accordance with paragraph (c) of this section, except where fees are limited under paragraph (d) of this section or where a waiver or reduction of fees is granted under paragraph (l) of this section. Requesters will pay fees by check or money order made payable to the U.S. Environmental Protection Agency.

(b) *Definitions.* For purposes of this section:

(1) Commercial use request means a request from or on behalf of a person who seeks information for a use or purpose that furthers the requester's commercial, trade, or profit interests, which can include furthering those interests through litigation. The Agency will determine, whenever reasonably possible, the use to which a requester will put the

requested records. When it appears that the requester will put the records to a commercial use, either because of the nature of the request itself or because the Agency has reasonable cause to doubt a requester's stated use, the Agency will provide the requester a reasonable opportunity to submit further clarification.

(j) *Advance payments.* (1) For requests other than those described in paragraphs (j)(2) and (3) of this section, the Agency will not require the requester to make an advance payment (that is, a payment made before EPA begins or continues work on a request). Payment owed for work already completed (that is, a prepayment before the Agency sends copies to a requester) is not an advance payment.

(2) When the Agency determines or estimates that a total fee to be charged under this section will be more than \$250.00, it may require the requester to make an advance payment of an amount up to the amount of the entire anticipated fee before beginning to process the request, except when it receives a satisfactory assurance of full payment from a requester that has a history of prompt payment.

Beginning around December 2020, I began reviewing your requests. I reviewed each of the currently open requests and many of the past requests that you have submitted to the Agency. I concluded the EPA has inconsistently charged you processing fees.

Based on the information that I was able to obtain from public sources, the National FOIA Office made a preliminary determination that you should be categorized as a commercial requester because you are seeking the information through these requests for “a use or purpose that furthers the requester's commercial, trade, or profit interests, which can include furthering those interests through litigation.”

February 12, 2021 Letter from EPA

I outlined the rationale for my conclusion in the February 12, 2021 letter to you, *RE: Fee category for Freedom of Information Act (FOIA) requests: Clock Stopped for Fees. Please submit further clarification.*” In that letter, I also provided you with the opportunity to submit further clarification by March 4, 2021.

March 3, 2021 Response from James Chelmowski

On March 3, 2021, you wrote to the Chief FOIA Officer, the National FOIA Office, and me. Your correspondence covered multiple topics, and I have included the full response as an appendix, however, the pertinent parts for purposes of further clarification regarding the appropriate fee category are below:

This is my required response by the EPA and EPA Denise Walker in her February 12, 2021 letter, that EPA legal authority to require this response by March 4, 2021.

The EPA attorneys Scott Albright and Kevin Miller reviewed requests and confirmed that I was an “Other” fee category beginning in 2018. This only changed on December 17, 2020 the day the EPA Denise Walker provided a full denial on FOIA and Privacy Act request # EPA-2021-000337 (EPA has not provide me the Privacy Act control number) for the EPA federal records regarding alleged EPA FOIA and Privacy

Act searches on my FOIA and Privacy Act Requests.

I will update this response as soon as either EPA FOIA Public Liaison Timothy Epp and/or EPA Chief FOIA Officer Melissa Hoffer provide responses to ALL 6 items in my Official FOIA Public Liaison Request would help decide my fee category to my rights pursuant to federal laws of FOIA and Privacy Act.

As you and the EPA know, **prior to December 17, 2020 EPA classified me as an "Other" Requester including "first-party" FOIA and Privacy Act requests, this "Commercial" classification change came within an hour of the December 17, 2020 EPA Denise Walker full denial of FOIA Request EPA-2021-000337 Response for the EPA communications regarding the EPA alleged FOIA and Privacy Act searches. The EPA Denise Walker full denial of the October 16, 2021 FOIA and Privacy Act request EPA-2021-000337 for the EPA communications regarding the EPA's alleged FOIA and Privacy Act searches, she minutes before categorized me as "Other" fee category. Then within an hour the EPA and Denise Walker changed my FOIA Fee Category from "Other" to "Commercial".**

Your clarification correspondence also included the following information farther down. For the sake of completeness, I will include it here.

Chelmowski has been classified as an "Other" requester NOT "Commercial" from 2016 to about December 29, 2020

The EPA from my first FOIA Request in 2016 until about December 29, 2020 has categorized me as an "Other" FOIA requester. The EPA even reviewed and confirmed my classification as an "Other" requester in at least FOIA Appeal determination.

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My relationship with the EPA is like many thousands of FOIAonline users. Those FOIAonline users and I have their/my rights to the EPA federal records related to them including but not limited to the EPA Privacy Act system of records regarding them.

Analysis of Information Provided by the Requester on March 3, 2021

The Agency carefully reviewed your response to the March 3, 2021 request for clarification letter.

Any facts, background, or information as to your use or purpose of the information sought in the above-mentioned requests is absent from your March 3, 2021 clarification letter. Your clarification statement essentially states that you have been classified as “other” for fees in the past and thus should be classified as “other” in the future. While your requests have indeed been classified as “other” previously that does not demonstrate that an “other” classification was correct in the past or is correct now.

- You do not refute that the information you seek to obtain through these requests will further a business interest of yours.
- You have not provided any information to suggest that the litigation your requests seek to support does not serve to further a business interest of yours.

You also suggest that the EPA is purposefully concealing information from you. While we do find the volume of emails and somewhat unintelligible correspondence challenging to respond to, especially when you refuse to speak to us about your requests, the EPA National FOIA Office has no interest in and is not intentionally concealing anything from you.

EPA does, however, have an interest in upholding our obligation to properly charge fees for FOIA work. While EPA will not retroactively assess fees for the prior requests, we must properly assess fees going forward.

EPA Concludes That the Correct Fee Category for These FOIA Requests is Commercial
You will be assessed fees at the commercial rate for all remaining unbilled processing work.

My conclusion that you will put the records sought through the above FOIA requests to a commercial use is based on the following information:

1) Your Listed Address is a Business Address

The address associated with your requests, (b) (6) (b) (6) (b) (6) (b) (6) is a commercial building and not a private residence.

2) The Phone Number at the Heart of Your Litigation Disputes is Affiliated with your Commercial Interests.

A Google search revealed that you have a blog available online:

<https://activerain.com/blogs/jimchelmowski>. The blog is entitled “Jim Chelmowski's (jimchelmowski) Blog”

This blog is associated with you and real estate postings from 2011 but does not appear to be active. The phone number listed on the blog is: “O: (847) 768-0000.” The “O:” preceding the phone number is commonly used to label a phone number as an office phone number.

Based on publicly available administrative and litigation records including the *Chelmowski v. ATT* Complaint to the FCC, and *James Chelmowski v. AT&T Mobility*, No. 18-1082 (7th Cir. 2019), the (847) 768-0000 vanity phone number listed on your blog is at the heart of a long-standing dispute between you and AT&T that evolved into a dispute with the FCC and now

NARA and the EPA. It appears that you wished for this (847) 768- 0000 number to forward to (b) (6). In order to obtain documents to support your litigation in furtherance of your commercial objectives, you have been filing Freedom of Information Act Requests. The Northern District Court of Illinois, also cited by the 7th Circuit, explains the connection as follows:

Having lost his repeated attempts to sue AT&T over the dispute about his cellphone number, Chelmowski turned to another tactic. He served Freedom of Information Act ("FOIA") requests on the Federal Communications Commission seeking any documents related to him or his dispute with AT&T. He then filed two lawsuits in the District of Columbia complaining about the government's FOIA responses and used these suits as vehicles for serving third-party subpoenas on AT&T entities. Litigation over compliance with the subpoenas occurred in the Northern District of Illinois. Judge Sharon Coleman denied Chelmowski's motion to enforce several of these subpoenas, ruling that he had "not shown any basis in law or in fact for this [c]ourt to allow the request" to "compel discovery from a third-party, AT&T." (citing Minute Entry, *Chelmowski v. FCC*, No. 1:16-cv-5587 (N.D. Ill. Aug. 24, 2016), ECF No. 24.

James Chelmowski v. AT&T Mobility, No. 18-1082 (7th Cir. 2019) available at: <https://law.justia.com/cases/federal/appellate-courts/ca7/18-1082/18-1082-2019-01-09.html>

Based on the office number posted on Jim Chelmowski's (jimchelmowski) Blog, the office phone number and commercial address provided in above-mentioned FOIA requests, and litigation history associated with this phone number, the EPA National FOIA Office believes that all 72 of the FOIA requests and appeals you have submitted to the agency from 2017 to present, seek records to support what the 7th Circuit Court of Appeals characterized as a "never-ending, groundless vendetta over the failed "porting" of your cell-phone number."

3. You Have Repeatedly Stated that You Need the EPA To Respond to Your EPA FOIA Requests in Order to Prepare Filings in Court for Civil Action No. 17-1394.

You have sent the Agency numerous emails stating that your FOIA requests are essentially discovery for a pending litigation. The litigation is Civil Action No. 17-1394, which is tied to your previous disputes with AT&T and your cell phone number. For example, the subject line of the following email message to Agency officials is "RE: Notice of the EPA knowledge of potential Obstructing, negligently concealment, fraudulent concealment, ethic violations, intentional torts, etc. with active DDC 17-cv-1394 which Chelmowski needs to brief with obstructed and concealed knowledge.":

From: (b) (6) <(b) (6)>
Sent: Wednesday, February 3, 2021 12:19 PM
To: Crawford, Tim <Crawford.Tim@epa.gov>; McGuire, Cathy <McGuire.Cathy@epa.gov>; Roberts, Antonio <Roberts.Antonio@epa.gov>; Sabbagh, Bill <sabbagh.bill@epa.gov>; Sanderson, Bobby <sanderson.bobby@epa.gov>; Kelly, Lee <Kelly.Lee@epa.gov>; McKinney, Robert <mckinney.robert@epa.gov>; Earle, Judy <Earle.Judy@epa.gov>; Green, LindaE <Green.LindaE@epa.gov>; Rementer, Nicole <rementer.nicole@epa.gov>; Albright, Scott <Albright.Scott@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Blair, Shirley <Blair.Shirley@epa.gov>; Bossard, Justin <bossard.justin@epa.gov>; Kaminer, Joan

<Kaminer.Joan@epa.gov>; Altendorfer, Ian <Altendorfer.Ian@epa.gov>; Perrin, Michael <Perrin.Michael@epa.gov>; Hill, Kevin <hill.kevin@epa.gov>; Stilp, Mark <Stilp.Mark@epa.gov>; Kerwin, Courtney <Kerwin.Courtney@epa.gov>; Spears, Rasheena <spears.rasheena@epa.gov>; Pickell, Casey <pickell.casey@epa.gov>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>; Nishida, Jane <Nishida.Jane@epa.gov>; Packard, Elise <Packard.Elise@epa.gov>; Christofel, Dave <Christofel.David@epa.gov>; Levine, Scott <Levine.Scott@epa.gov>

Cc: OIP.ComplianceInquiry@usdoj.gov

Subject: RE: Notice of the EPA knowledge of potential Obstructing, negligently concealment, fraudulent concealment, ethic violations, intentional torts, etc. with active DDC 17-cv-1394 which Chelmowski needs to brief with obstructed and concealed knowledge

Importance: High

Dear Robert McKinney, Judy Earle and all EPA staff and attorneys including all EPA involved with any of my FOIA and Privacy Act Requests.

I am still waiting for all my past due FOIA and/or Privacy Act requests and appeals. Please immediately provide all past due requests and dates the EPA will finally comply with their mandatory duties.

Please all recipients confirm receipt in case this needs to be a record of the Court Because the EPA denies receipt of many of my emails. I need all EPA recipients to confirm Read Receipt in case these communications need to go to Court.

EPA and all it's staff are required to perform their mandatory duties by federal law, regulations, directives, policies and procedures.

This email will confirm this Notice to the EPA Attorneys and Staff to Notify Judge James Boasberg of your firsthand knowledge of material facts in the FOIA before this Court being concealed by the EPA, and any attorney ethic violations and/or EPA ethic violations.

As the EPA knows, I needed to request another extension because the EPA is obstructing, and/or negligently concealing, and/or fraudulently concealing these FOIA and/or Privacy Act responsive records.

U.S. District Court

District of Columbia

Notice of Electronic Filing

The following transaction was entered on 2/1/2021 at 1:51 PM EDT and filed on 2/1/2021

Case Name: CHELMOWSKI v. UNITED STATES OF AMERICA

Case Number: 1:17-cv-01394-JEB

Filer:

Document Number: No document attached

Docket Text:

MINUTE ORDER GRANTING Plaintiff's [77] Motion for Extension of Time. The Court ORDERS that: 1) Plaintiff shall file his Opposition and any Cross-Motion for Summary Judgment by February 8, 2021; 2) Defendants shall file their combined Reply and any Opposition by March 8, 2021; and 3) Plaintiff shall file any Reply by

April 8, 2021. The Court further ORDERS that Plaintiff's [76] Motion for Extension of Time is DENIED as superseded. So ORDERED by Judge James E. Boasberg on 2/1/2021. (lcjeb1)

I conclude that the FOIA litigation with EPA, Civil Action No. 17-1394, is tied to the ongoing cell phone number vendetta, because EPA-HQ-2017-008255 is one of the requests that is the subject of your litigation, and sought EPA's processing records related to "*Chelmowski v. FCC*, No.16 cv 5587 (N.D. Ill)."

Description See attached file for complete FOIA/PA request I am requesting ALL EPA responsive records pursuant to both FOIA 5 USC 552 and Privacy Act 5 USC 552a regarding me the Requestor James Chelmowski. Search Period: 5/1/16 to 6/9/17

Description of Records Sought: EPA communication records including internal and external emails, phone & meeting logs, notes, correspondence, etc. during the search period related to the requester James Chelmowski (search with all name permutations such as Chelmowski, Mr. Chelmowski, James Chelmowski & Jim Chelmowski, etc.) and including searches on misspellings like the ones NARA used Chelmowsky, Chelmoski and all communications internal and external emails, logs, notes correspondence, etc. related to my EPA FOIA requests EPA-HQ-2016-009708, EPA-HQ-2017-005390 (all abbreviations like EPA-HQ-2016-9708, EPA-HQ-2017-9708) and all communications internal and external emails, logs, notes, correspondence, etc. associated with *Chelmowski v. FCC*, No. 16 c 5587 (N.D. Ill) & May 2016 District Court Subpoena EPA never responded to (see attached). Privacy Act/FOIA search must include internal and external emails, notes, conversation & meeting logs and correspondence databases Including Office of General Counsel (database) and Office of Environmental Information (database); EPA- 22 "Correspondence Management System (CMS)"; EPA-9 "FOIA Requests and Appeal Files" and all non-published email and/or correspondence databases. Plus, any other EPA email systems (including but not limited to the mandate central email system of records which mandated all agencies must implement on or before 12/31/16). Include any request for communications deletions or archives for records regarding me. Must include but not limited to individual emails, notes, logs & correspondence to and from Mark Stilp, Larry Gottesman, Judy Earle, Kevin Minoli, Elise Packard, Justin Schwab, David Fotouhi, Richard Albores, Wendy Schumacher, Judith Lewis and any other EPA staff,.

Your communications to the Agency indicate that your currently open FOIA requests are essentially discovery for your pending litigation in Civil Action No. 17-1394. In fact, since January 4, 2021, the National FOIA Office email inbox received twelve e-mail messages from you (b) (6) about your open FOIA requests that either refer to or reference Civil Action No. 17-1394.

Per EPA FOIA Regulations, the National FOIA Office concludes that you "will put the records requested [in each of the requests above] to a commercial use, either because of the nature of the request itself or because the Agency has reasonable cause to doubt your stated use." Specifically, EPA has reason to believe that you are seeking the information to support litigation related to your commercial

interests.

Clocks Remained Stopped for Fee Discussions

For each request, the Agency will or has provided you with a Fee Estimate at the commercial rate for the remaining work to be completed. The clocks will remain stopped until you provide assurance of payment (agree to the charges).

The agency will evaluate any new requests you submit on a case-by-case basis for the appropriate fee category.

If you have any questions about the contents of this letter, please contact Denise A. Walker at walker.denise@epa.gov or by phone at (202) 564-6520.

As stated above, you may seek assistance from EPA's FOIA Public Liaison at hq.foia@epa.gov or call (202) 566-1667. You may also seek assistance from (OGIS). You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001; email: ogis@nara.gov; telephone: (202) 741-5770 or (877)684-6448; or fax: (202) 741-5769.

Sincerely,

/s/ Denise A. Walker
Denise A. Walker, Esq.
Office of General Counsel

APPENDIX A:

From: Walker, Denise

Sent: Thursday, March 4, 2021 10:17 AM

To: (b) (6) FOIA HQ <FOIA_HQ@epa.gov>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>

Cc: OIP.ComplianceInquiry@usdoj.gov; ogis@nara.gov; Epp, Timothy <Epp.Timothy@epa.gov>

Subject: RE: This is my Timely Required Response by the EPA and Denise Walker - Re: EPA Commercial Fee demands for Records Regarding me by the EPA and still Waiting for my Rights Required by the EPA pursuant 5 USC 552(l) Public Liaison written response to the 6 it

Dear Mr. Chelmowski:

Thank you for providing the response to my letter (Re: Fee category for Freedom of Information Act (FOIA) requests: Clock Stopped for Fees. Please submit further clarification. Dated February 12, 2021) below.

The National FOIA Office will review and consider your submission and send you a follow-up letter within 2 weeks.

Our FOIA Public Liaison, Mr. Epp, has offered to meet with you or to identify another supervisor for you to meet with to assist you with your concerns. I have copied him on this response.

If you would like to call to arrange a time to meet, either Tim or I are happy to speak to you. You may Also Call OGIS at 202-741-5770.

Best,

Denise A. Walker
202-564-6520

From: (b) (6) <(b) (6)>

Sent: Wednesday, March 3, 2021 5:14 PM

To: FOIA HQ <FOIA_HQ@epa.gov>; Walker, Denise <Walker.Denise@epa.gov>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>

Cc: OIP.ComplianceInquiry@usdoj.gov; ogis@nara.gov

Subject: This is my Timely Required Response by the EPA and Denise Walker - Re: EPA Commercial Fee demands for Records Regarding me by the EPA and still Waiting for my Rights Required by the EPA pursuant 5 USC 552(l) Public Liaison written response to the 6 items

Importance: High

Dear EPA FOIA Office, EPA Denise Walker, and EPA Chief FOIA Officer Melissa Hoffer.

Please confirm receipt of this timely response or I will email this every few hours until I received writing confirmation of this timely response and when I will be receiving my rights pursuant FOIA law 5 USC 552(l) because of the EPA deadline of March 4, 2021 and the EPA & EPA FOIA Public Liaison Timothy Epp are denying my rights pursuant to federal law.

As EPA Denise Walker February 12, 2021 letter states "As stated above, you may seek assistance from EPA's FOIA Public Liaison" which I did and sent repeated emails for Public Liaison response for 6 items in writing which Timothy Epp has not responded to the 6 items yet. Ms. Walker and EPA have been recipients of these emails and are included and further documented after this email.

Therefore, I am still waiting for my rights as Ms. Walker stated on February 12, 2021 and pursuant to Federal law 5 USC 552(l) for the EPA provide response to my written response regarding the 6 issues in my Official FOIA Public Liaison request (see email Chain).

This is my required response by the EPA and EPA Denise Walker in her February 12, 2021 letter, that EPA legal authority to require this response by March 4, 2021.

The EPA attorneys Scott Albright and Kevin Miller reviewed requests and confirmed that I was an "Other" fee category beginning in 2018. This only changed on December 17, 2020 the day the EPA Denise Walker provided a full denial on FOIA and Privacy Act request # EPA-2021-000337 (EPA has not provide me the Privacy Act control number) for the EPA federal records regarding alleged EPA FOIA and Privacy

Act searches on my FOIA and Privacy Act Requests.

I will update this response as soon as either EPA FOIA Public Liaison Timothy Epp and/or EPA Chief FOIA Officer Melissa Hoffer provide responses to ALL 6 items in my Official FOIA Public Liaison Request would help decide my fee category to my rights pursuant to federal laws of FOIA and Privacy Act.

As you and the EPA know, prior to December 17, 2020 EPA classified me as an "Other" Requester including "first-party" FOIA and Privacy Act requests, this "Commercial" classification change came within an hour of the December 17, 2020 EPA Denise Walker full denial of FOIA Request EPA-2021-000337 Response for the EPA communications regarding the EPA alleged FOIA and Privacy Act searches. The EPA Denise Walker full denial of the October 16, 2021 FOIA and Privacy Act request EPA-2021-000337 for the EPA communications regarding the EPA's alleged FOIA and Privacy Act searches, she minutes before categorized me as "Other" fee category. Then within an hour the EPA and Denise Walker changed my FOIA Fee Category from "Other" to "Commercial".

As you and EPA know, my FOIA Public Liaison Request that must be addressed include the following items in writing.

Provide the federal laws, regulations that give the EPA legal authority of beginning to be categorizing me as a Commercial request on or about December 30, 2020. All six dispute items must be in the FOIA Public Liaison response letter by the EPA. These items are not the FOIA request. These are disputed items in this Official FOIA Public Liaison mediation request.

1. Provide the EPA and FOIA requirements for the phone numbers and mailing address in FOIAonline to obtain EPA records regarding the Requesters to be considered a "Other" or "Commercial" requester.
2. That a cell phone on FOIAonline makes the requester a Commercial requester. Which are the requesters only phone number cannot used as FOIA phone number.
3. The EPA legal authority of a FOIA requesting the EPA federal records regarding him is considered Commercial Requester.
4. The EPA has legal authority to charge for records regarding the Requester in the EPA Privacy Act System of Records.
5. That a FOIA and Privacy Act Requester is not entitled to the EPA federal records related to him under the FOIA and Privacy Act and the EPA must comply with federal laws, regulations, directives, policies, and procedures to provide these EPA federal records related to him.
6. The EPA does not need to do as the EPA stated to the Department of Justice in their FOIA Annual Report that the EPA defines FOIA requests That first party requesters should be afforded the benefit of both access provisions of the FOIA as well as those of the Privacy Act.

Please explain in detail exactly what needs to be negotiated in these 6 items by March 4, 2021.

With ALL YOUR QUESTIONS ON EXACTLY WHAT YOU NEED TO NEGOTIATION IN WRITNG.

Please confirm in writing the receipt of this email meeting the EPA and Denise Walker's deadline.

Provide me the date the EPA FOIA Public Liaison will provide response in writing to each of these 6 items in my FOIA Public Liaison request which the Federal laws and you confirmed that I have this right.

Sincerely,

James Chelmowski

FOIA and Privacy Act Requester

FOIA Public Liaison Request

FOIA Public Liaison Request

From: (b) (6) <(b) (6)>

Sent: Tuesday, March 2, 2021 7:53 AM

To: 'Epp, Timothy' <Epp.Timothy@epa.gov>; 'foia@fcc.gov' <foia@fcc.gov>; 'Roberts, Antonio' <Roberts.Antonio@epa.gov>; 'Walker, Denise' <Walker.Denise@epa.gov>; 'National Privacy Program' <privacy@epa.gov>; 'Crawford, Tim' <Crawford.Tim@epa.gov>; 'Hoffer, Melissa' <Hoffer.Melissa@epa.gov>; 'Nishida, Jane' <Nishida.Jane@epa.gov>; 'Packard, Elise' <Packard.Elise@epa.gov>

Cc: 'OIP.ComplianceInquiry@usdoj.gov' <OIP.ComplianceInquiry@usdoj.gov>; 'ogis@nara.gov' <

ogis@nara.gov>

Subject: RE: Official FOIA Public Liaison mediation request with 6 items in dispute - These are not FOIA request questions. This is a FOIA Public Liaison Dispute Mediation Request!

Importance: High

Dear EPA's FOIA Public Liaison Timothy Epp and the EPA's Chief FOIA Officer Melissa Hoffer.

This email stops the tolling on all FOIA and Privacy Act requests with the EPA. The EPA must comply with FOIA federal law and my right to FOIA Public Liaison Request on these 6 items. 5 USC 552(I). The EPA Chief FOIA Officer has responsibility of the EPA Public Liaison.

Please explain in detail exactly what needs to be negotiated in these 6 items by March 4, 2021.

With ALL YOUR QUESTIONS ON EXACTLY WHAT YOU NEED TO NEGOTIATION IN WRITNG.

You can easily put exact details of what you want to negotiate in writing of the 6 items unless you do not want a documented history of the TRUE Facts. So, you and the EPA want to provide false statements.

I look forward to the details of exactly what needs to be negotiated or the EPA FOIA Public Liaison response to ALL 6 items by March 4, 2021 in writing.

As you know and documented on April 25, 2019 that the EPA has my preference of communications through emails not phone calls so communication would be documented in writing. You also sent your April 25, 2019 email to the EPA Administrator Andrew Wheeler and EPA General Counsel & EPA Chief FOIA Officer Matthew Leopold to document this email and my preference as a fact with the EPA. You have that email and is a Federal Record with the EPA. Your April 25, 2019 email to me is an official EPA federal record in the EPA email system and should be also stored in the EPA Privacy Act System of Records EPA-22 Correspondence Management System.

You repeatedly demand ONLY phone calls after April 25, 2019. I repeatedly request everything in writing which you repeatedly refuse. Which proves why all communications between the EPA and I MUST BE in writing. Which is documented as fact in the EPA federal record of your April 25, 2019 email to Andrew Wheeler, Matthew Leopold and me.

Therefore, in writing. What Exactly needs to be Negotiated?

I am not Congress and I have no legal authority to create new Federal Laws. So, I cannot negotiate federal laws with the EPA.

I am not the EPA who stated alleged facts to the Department of Justice (DOJ) and Attorney General (AG) on how they processed the EPA first party FOIA requests. 5 USC 552(e). So, I cannot negotiate what the EPA stated as alleged facts to the DOJ and AG with the EPA.

Which the EPA repeatedly stated as fact to the DOJ and AG that firstparty requesters should be afforded the benefit of both access provisions of the FOIA as well as those of the Privacy Act.

Please explain in detail exactly what needs to be negotiated with me in these 6 items. Put ALL YOUR QUESTIONS ON EXACTLY WHAT YOU NEED TO NEGOTIATION IN WRITNG.

OFFICIAL FOIA PUBLIC LIAISON DISPUTE MEDIATION BY 5 USC 552 CONSISTS OF THE FOLLOWING 6 (SIX) Items as follows:

Provide the federal laws, regulations that give the EPA legal authority of beginning to be categorizing me as a Commercial request on or about December 30, 2020. All six dispute items must be in the FOIA Public Liaison response letter by the EPA. These items are not the FOIA request. These are disputed items in this Official FOIA Public Liaison mediation request.

Provide the EPA and FOIA requirements for the phone numbers and mailing address in FOIAonline to obtain EPA records regarding the Requesters to be considered a "Other" or "Commercial" requester. That a cell phone on FOIAonline makes the requester a Commercial requester. Which are the requesters only phone number cannot used as FOIA phone number.

The EPA legal authority of a FOIA requesting the EPA federal records regarding him is considered Commercial Requester.

The EPA has legal authority to charge for records regarding the Requester in the EPA Privacy Act System of Records.

That a FOIA and Privacy Act Requester is not entitled to the EPA federal records related to him under the FOIA and Privacy Act and the EPA must comply with federal laws, regulations, directives, policies, and procedures to provide these EPA federal records related to him.

The EPA does not need to do as the EPA stated to the Department of Justice in their FOIA Annual Report that the EPA defines FOIA requests That first party requesters should be afforded the benefit of both access provisions of the FOIA as well as those of the Privacy Act.

Please explain in detail exactly what needs to be negotiated in these 6 items by March 4, 2021.

With ALL YOUR QUESTIONS ON EXACTLY WHAT YOU NEED TO NEGOTIATION IN WRITNG.

You can easily put exact details of what you want to negotiate in writing of the 6 items unless you do not want a documented history of the TRUE Facts. So, you and the EPA want to provide false statements.

I look forward to the details of exactly what needs to be negotiated or the EPA FOIA Public Liaison response to ALL 6 items by March 4, 2021 in writing.

Sincerely,

James Chelmowski

FOIA and Privacy Act Requester

From: Epp, Timothy <Epp.Timothy@epa.gov>

Sent: Monday, March 1, 2021 10:32 AM

To: (b) (6) <foia@fcc.gov>; Roberts, Antonio <Roberts.Antonio@epa.gov>; Walker, Denise <Walker.Denise@epa.gov>; National Privacy Program <privacy@epa.gov>; Crawford, Tim <Crawford.Tim@epa.gov>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>; Nishida, Jane <Nishida.Jane@epa.gov>; Packard, Elise <Packard.Elise@epa.gov>

Cc: OIP.ComplianceInquiry@usdoj.gov; ogis@nara.gov

Subject: RE: Official FOIA Public Liaison mediation request with 6 items in dispute - These are not FOIA request questions. This is a FOIA Public Liaison Dispute Mediation Request!

Dear Mr. Chelmowski,

Thank you for reaching out to request EPA's FOIA Public Liaison mediation services in connection with your disputes identified in your email copied below. Please provide several times you would be available for a telephone call this week along with your telephone number. If you want, I can have another EPA supervisor talk with you to serve as EPA's Public Liaison on this matter.

Please note that the FOIA does not require EPA to answer your questions; it only requires release of records (subject to certain limitations) in response to a proper request under the FOIA. The Public Liaison provisions of the FOIA do not entitle requesters to demand answers to their questions. The Public Liaison service is a dispute resolution service through which we apply interest-based negotiation methods and techniques to attempt to resolve disputes outside of litigation. Because the Public Liaison service is an interest-based negotiation process designed to explore opportunities for mutually agreeable resolution, neither EPA nor you will be bound until agreement is reached. Any agreement reached through the negotiation process would be documented in writing and you will be in full control of whether to agree to the written terms of the agreement. The process of exploring opportunities for consensual resolution does not need to be in writing –indeed, demanding that it be conducted in writing can chill the open and frank communication needed for interest-based negotiation and exploration of potential options for agreement.

I look forward to talking with you regarding your interests in an effort to find a mutually agreeable resolution to your concerns.

Tim

Timothy R. Epp

Associate General Counsel|[National FOIA Office](mailto:National.FOIA@epa.gov)

U.S. Environmental Protection Agency | Office of General Counsel

1200 Pennsylvania Avenue, N.W. (MC 2310A)

Washington, D.C. 20460 | WJCN 7309B

Phone (202) 564-2830 | epp.timothy@epa.gov

From: (b) (6) <(b) (6)>

Sent: Monday, March 01, 2021 9:59 AM

To: Epp, Timothy <Epp.Timothy@epa.gov>; foia@fcc.gov; Roberts, Antonio <Roberts.Antonio@epa.gov>; Walker, Denise <Walker.Denise@epa.gov>; National Privacy Program <privacy@epa.gov>; Crawford, Tim <Crawford.Tim@epa.gov>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>; Nishida, Jane <Nishida.Jane@epa.gov>; Packard, Elise <Packard.Elise@epa.gov>

Cc: OIP.ComplianceInquiry@usdoj.gov; ogis@nara.gov

Subject: Official FOIA Public Liaison mediation request with 6 items in dispute - These are not FOIA request questions. This is a FOIA Public Liaison Dispute Mediation Request!

Importance: High

Dear EPA, EPA's FOIA Public Liaison, and EPA's Chief FOIA Officer.

I am not a Commercial requester in fact the EPA confirmed that in at least one FOIA Appeal determination and EPA properly classified me as an "Other" requester. Then beginning on or about December 30, 2020, EPA apparent negligent and/or fraudulent concealment scheme of the EPA federal records regarding me classified me as "Commercial" requester contradicting EPA's Official Appeal determinations that I was an "Other" after EPA reviewed my status in the past. The EPA is using the new classification (beginning on or about December 30, 2020) calling me a "Commercial" requester to conceal the EPA's federal records regarding me and denying my rights by federal laws including FOIA and Privacy Act.

This is an Official Public Liaison Dispute Request and requires a signed FOIA Public Liaison response to the 6 items disputed. This is not FOIA request questions. This is a FOIA Public Liaison Dispute Mediation Request!

FOIA and Privacy Act Request EPA-2021-002747 would Confirm Who Created the False and Possibly Forged FOIA Appeal control Number EPA-2021-002054

The EPA would not respond to my emails regarding this False Appeal to change my Factual Appeal # EPA-2021-002012.

The EPA created this false Appeal on January 19, 2021 and back dated this to January 15, 2021. It appears this might even be a criminal act of forgery. This so the EPA can conceal the EPA federal records regarding me that I requested on October 16, 2020 through my rights by the federal laws of FOIA and Privacy Act.

OFFICIAL FOIA PUBLIC LIAISON DISPUTE MEDIATION BY 5 USC 552 CONSISTS OF THE FOLLOWING 6 (SIX) Items

Provide the federal laws, regulations that give the EPA legal authority of beginning to be categorizing me as a Commercial request on or about December 30, 2020. All six dispute items must be in the FOIA Public Liaison response letter by the EPA. These items are not the FOIA request. These are disputed items in this Official FOIA Public Liaison mediation request.

Provide the EPA and FOIA requirements for the phone numbers and mailing address in FOIAonline to obtain EPA records regarding the Requesters to be considered a "Other" or "Commercial" requester. That a cell phone on FOIAonline makes the requester a Commercial requester. Which are the requesters only phone number cannot used as FOIA phone number.

The EPA legal authority of a FOIA requesting the EPA federal records regarding him is considered Commercial Requester.

The EPA has legal authority to charge for records regarding the Requester in the EPA Privacy Act System of Records.

That a FOIA and Privacy Act Requester is not entitled to the EPA federal records related to him under the FOIA and Privacy Act and the EPA must comply with federal laws, regulations, directives, policies, and procedures to provide these EPA federal records related to him.

The EPA does not need to do as the EPA stated to the Department of Justice in their FOIA Annual Report that the EPA defines FOIA requests That first-party requesters should be afforded the benefit of both access provisions of the FOIA as well as those of the Privacy Act.

FACTS

EPA FOIA Annual Reports to the Department of Justice

Did the EPA provide false statements to the Department of Justice in their EPA FOIA Annual Report with associated raw date?

The EPA stated as facts to the Department of Justice (DOJ) in the EPA FOIA Annual report with associated raw data regarding EPA FOIA request including EPA processed all firstparty requesters should be afforded the benefits of both access provisions of the FOIA as well as those of the Privacy Act: FOIA Request a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a "thirdparty" request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., "firstparty" requests) when those requesters are not subject to the Privacy Act, such as nonU.S. citizens. Moreover, because all firstparty requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any firstparty requests where an agency determines that it must search beyond its Privacy Act "systems of records" or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report.

Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.)

Chelmowski has been classified as an "Other" requester NOT "Commercial" from 2016 to about December 29, 2020

The EPA from my first FOIA Request in 2016 until about December 29, 2020 has categorized me as an "Other" FOIA requester. The EPA even reviewed and confirmed my classification as an "Other" requester in at least FOIA Appeal determination.

On or about December 30, 2020, the EPA stating I am a "Commercial Requester" when I am filing FOIA and Privacy Act requests for the EPA records regarding me.

I have always been categorized as an "Other Requester" since 2016 with the EPA this is clearly a concealment scheme by the EPA to conceal the EPA federal records regarding me.

This was Just After the EPA refused to Provide a Clarification Letter with an EPA staff Member's Name on it

This was just about a week or two after the EPA refused to provide the October 21, 2020 Clarification letter with an EPA name on it for FOIA/PA EPA-2021-000337. The EPA repeatedly denied providing the name of the person responsible for this letter on the letter. Then on December 17, 2020 EPA denied this Request. My fee category was "Other" for EPA-2021-000337.

Now, the EPA wants to conceal these facts from my FOIA and/or Privacy Act requests by not correctly processing and providing the responsive records. So, on December 30, 2020 began outrageous fees and categorizing me as "Commercial" requester trying to obtain the EPA federal records regarding me. Clearly a concealment scheme.

In October, November, and/or December 2020, the EPA appears to have decided to not produce responsive records for my FOIA and/or Privacy Act responsive records.

FOIAonline signup did not request home phone numbers or home addresses.

See FOIAonline "Create a Public Account" below from the EPA's FOIAonline instructions nothing states:

James Chelmowski's True Relationship with the EPA

The EPA knows the relationship with the EPA and me began in 2015. When I created an account for FOIAonline like tens of thousands other FOIAonline users per my rights as US citizen.

I have my federal rights to both the FOIA and Privacy Act Request. Under both laws I have the right to EPA federal records including EPA's Privacy Act System of Records EPA-9 "FOIAonline" and the EPA communications regarding me.

My relationship with the EPA is like many thousands of FOIAonline users. Those FOIAonline users and I have their/my rights to the EPA federal records related to them including but not limited to the EPA Privacy Act system of records regarding them.

Summary

Provide the federal laws, regulations that give the EPA legal authority of beginning to be categorizing me as a Commercial request on or about December 30, 2020. All six dispute items must be in the FOIA Public Liaison response letter by the EPA. These items are not the FOIA request. These are disputed items in this official FOIA Public Liaison mediation request.

Provide the EPA and FOIA requirements for the phone numbers and mailing address in FOIAonline to

obtain EPA records regarding the Requesters to be considered a "Other" or "Commercial" requester. That a cell phone on FOIAonline makes the requester a Commercial requester. Which are the requesters only phone number cannot used as FOIA phone number.

The EPA legal authority of a FOIA requesting the EPA federal records regarding him is considered Commercial Requester.

The EPA has legal authority to charge for records regarding the Requester in the EPA Privacy Act System of Records.

That a FOIA and Privacy Act Requester is not entitled to the EPA federal records related to him under the FOIA and Privacy Act and the EPA must comply with federal laws, regulations, directives, policies, and procedures to provide these EPA federal records related to him.

The EPA does not need to do as the EPA stated to the Department of Justice in their FOIA Annual Report that the EPA defines FOIA requests That first-party requesters should be afforded the benefit of both access provisions of the FOIA as well as those of the Privacy Act.

Please provide response to ALL (6) six items above ASAP.

Sincerely

James Chelmowski

FOIA and Privacy Act Request

From: roberts.antonio@epa.gov <roberts.antonio@epa.gov>

Sent: Wednesday, February 24, 2021 4:31 PM

To: (b) (6)

Subject: Estimate Cost Notice EPA-2021-002747

We estimate that the cost to find responsive records will be approximately \$65.25. This estimate is based on about 0.50 of Search, and 1.25 of Review.

From: foia_hq@epa.gov <foia_hq@epa.gov>

Sent: Wednesday, February 24, 2021 4:26 PM

To: (b) (6)

Cc: Buchsbaum.Seth@epa.gov

Subject: EPA-2021-002747 Proposed Response and Fee Estimate - Clock Stopped for Assurance of Payment

Dear Mr. Chelmowski:

I hope this finds you well.

Please see the attached correspondence.

Best,

Denise A. Walker

202-564-6520

EPA National FOIA Office



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
GENERAL COUNSEL

March 15, 2021

Mr. James Chelmowski

(b) (6) (b) (6) (b) (6)
(b) (6) (b) (6)

Re: Fee category for Freedom of Information Act (FOIA) requests: Commercial.

EPA-2021-002747
EPA-2021-001511
EPA-2021-001305
EPA-2021-001196
EPA-2021-000819
EPA-HQ-2019-000736

Dear Mr. Chelmowski:

This letter concerns the above-referenced FOIA requests, received by the U.S. Environmental Protection Agency (EPA or Agency).

Fee Category and Fees

EPA's [FOIA Regulations](#) state the following:

§2.107 Fees.

(a) *In general.* The Agency will charge for processing requests under the FOIA in accordance with paragraph (c) of this section, except where fees are limited under paragraph (d) of this section or where a waiver or reduction of fees is granted under paragraph (l) of this section. Requesters will pay fees by check or money order made payable to the U.S. Environmental Protection Agency.

(b) *Definitions.* For purposes of this section:

(1) Commercial use request means a request from or on behalf of a person who seeks information for a use or purpose that furthers the requester's commercial, trade, or profit interests, which can include furthering those interests through litigation. The Agency will determine, whenever reasonably possible, the use to which a requester will put the

requested records. When it appears that the requester will put the records to a commercial use, either because of the nature of the request itself or because the Agency has reasonable cause to doubt a requester's stated use, the Agency will provide the requester a reasonable opportunity to submit further clarification.

(j) *Advance payments.* (1) For requests other than those described in paragraphs (j)(2) and (3) of this section, the Agency will not require the requester to make an advance payment (that is, a payment made before EPA begins or continues work on a request). Payment owed for work already completed (that is, a prepayment before the Agency sends copies to a requester) is not an advance payment.

(2) When the Agency determines or estimates that a total fee to be charged under this section will be more than \$250.00, it may require the requester to make an advance payment of an amount up to the amount of the entire anticipated fee before beginning to process the request, except when it receives a satisfactory assurance of full payment from a requester that has a history of prompt payment.

Beginning around December 2020, I began reviewing your requests. I reviewed each of the currently open requests and many of the past requests that you have submitted to the Agency. I concluded the EPA has inconsistently charged you processing fees.

Based on the information that I was able to obtain from public sources, the National FOIA Office made a preliminary determination that you should be categorized as a commercial requester because you are seeking the information through these requests for “a use or purpose that furthers the requester's commercial, trade, or profit interests, which can include furthering those interests through litigation.”

February 12, 2021 Letter from EPA

I outlined the rationale for my conclusion in the February 12, 2021 letter to you, *RE: Fee category for Freedom of Information Act (FOIA) requests: Clock Stopped for Fees. Please submit further clarification.*” In that letter, I also provided you with the opportunity to submit further clarification by March 4, 2021.

March 3, 2021 Response from James Chelmowski

On March 3, 2021, you wrote to the Chief FOIA Officer, the National FOIA Office, and me. Your correspondence covered multiple topics, and I have included the full response as an appendix, however, the pertinent parts for purposes of further clarification regarding the appropriate fee category are below:

This is my required response by the EPA and EPA Denise Walker in her February 12, 2021 letter, that EPA legal authority to require this response by March 4, 2021.

The EPA attorneys Scott Albright and Kevin Miller reviewed requests and confirmed that I was an “Other” fee category beginning in 2018. This only changed on December 17, 2020 the day the EPA Denise Walker provided a full denial on FOIA and Privacy Act request # EPA-2021-000337 (EPA has not provide me the Privacy Act control number) for the EPA federal records regarding alleged EPA FOIA and Privacy

Act searches on my FOIA and Privacy Act Requests.

I will update this response as soon as either EPA FOIA Public Liaison Timothy Epp and/or EPA Chief FOIA Officer Melissa Hoffer provide responses to ALL 6 items in my Official FOIA Public Liaison Request would help decide my fee category to my rights pursuant to federal laws of FOIA and Privacy Act.

As you and the EPA know, **prior to December 17, 2020 EPA classified me as an "Other" Requester including "first-party" FOIA and Privacy Act requests, this "Commercial" classification change came within an hour of the December 17, 2020 EPA Denise Walker full denial of FOIA Request EPA-2021-000337 Response for the EPA communications regarding the EPA alleged FOIA and Privacy Act searches. The EPA Denise Walker full denial of the October 16, 2021 FOIA and Privacy Act request EPA-2021-000337 for the EPA communications regarding the EPA's alleged FOIA and Privacy Act searches, she minutes before categorized me as "Other" fee category. Then within an hour the EPA and Denise Walker changed my FOIA Fee Category from "Other" to "Commercial".**

Your clarification correspondence also included the following information farther down. For the sake of completeness, I will include it here.

Chelmowski has been classified as an "Other" requester NOT "Commercial" from 2016 to about December 29, 2020

The EPA from my first FOIA Request in 2016 until about December 29, 2020 has categorized me as an "Other" FOIA requester. The EPA even reviewed and confirmed my classification as an "Other" requester in at least FOIA Appeal determination.

On or about December 30, 2020, the EPA stating I am a "Commercial Requester" when I am filing FOIA and Privacy Act requests for the EPA records regarding me.

I have always been categorized as an "Other Requester" since 2016 with the EPA this is clearly a concealment scheme by the EPA to conceal the EPA federal records regarding me.

This was Just After the EPA refused to Provide a Clarification Letter with an EPA staff Member's Name on it

This was just about a week or two after the EPA refused to provide the October 21, 2020 Clarification letter with an EPA name on it for FOIA/PA EPA-2021-000337. The EPA repeatedly denied providing the name of the person responsible for this letter on the letter. Then on December 17, 2020 EPA denied this Request. My fee category was "Other" for EPA-2021-000337.

Now, the EPA wants to conceal these facts from my FOIA and/or Privacy Act requests by not correctly processing and providing the responsive records. So, on December 30, 2020 began outrageous fees and categorizing me as "Commercial" requester trying to obtain the EPA federal records regarding me. Clearly a concealment scheme.

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My relationship with the EPA is like many thousands of FOIAonline users. Those FOIAonline users and I have their/my rights to the EPA federal records related to them including but not limited to the EPA Privacy Act system of records regarding them.

Analysis of Information Provided by the Requester on March 3, 2021

The Agency carefully reviewed your response to the March 3, 2021 request for clarification letter.

Any facts, background, or information as to your use or purpose of the information sought in the above-mentioned requests is absent from your March 3, 2021 clarification letter. Your clarification statement essentially states that you have been classified as “other” for fees in the past and thus should be classified as “other” in the future. While your requests have indeed been classified as “other” previously that does not demonstrate that an “other” classification was correct in the past or is correct now.

- You do not refute that the information you seek to obtain through these requests will further a business interest of yours.
- You have not provided any information to suggest that the litigation your requests seek to support does not serve to further a business interest of yours.

You also suggest that the EPA is purposefully concealing information from you. While we do find the volume of emails and somewhat unintelligible correspondence challenging to respond to, especially when you refuse to speak to us about your requests, the EPA National FOIA Office has no interest in and is not intentionally concealing anything from you.

EPA does, however, have an interest in upholding our obligation to properly charge fees for FOIA work. While EPA will not retroactively assess fees for the prior requests, we must properly assess fees going forward.

EPA Concludes That the Correct Fee Category for These FOIA Requests is Commercial
You will be assessed fees at the commercial rate for all remaining unbilled processing work.

My conclusion that you will put the records sought through the above FOIA requests to a commercial use is based on the following information:

1) Your Listed Address is a Business Address

The address associated with your requests, (b) (6) (b) (6) (b) (6) (b) (6) is a commercial building and not a private residence.

2) The Phone Number at the Heart of Your Litigation Disputes is Affiliated with your Commercial Interests.

A Google search revealed that you have a blog available online:

<https://activerain.com/blogs/jimchelmowski>. The blog is entitled “Jim Chelmowski's (jimchelmowski) Blog”

This blog is associated with you and real estate postings from 2011 but does not appear to be active. The phone number listed on the blog is: “O: (847) 768-0000.” The “O:” preceding the phone number is commonly used to label a phone number as an office phone number.

Based on publicly available administrative and litigation records including the *Chelmowski v. ATT* Complaint to the FCC, and *James Chelmowski v. AT&T Mobility*, No. 18-1082 (7th Cir. 2019), the (847) 768-0000 vanity phone number listed on your blog is at the heart of a long-standing dispute between you and AT&T that evolved into a dispute with the FCC and now

NARA and the EPA. It appears that you wished for this (847) 768- 0000 number to forward to (b) (6). In order to obtain documents to support your litigation in furtherance of your commercial objectives, you have been filing Freedom of Information Act Requests. The Northern District Court of Illinois, also cited by the 7th Circuit, explains the connection as follows:

Having lost his repeated attempts to sue AT&T over the dispute about his cellphone number, Chelmowski turned to another tactic. He served Freedom of Information Act ("FOIA") requests on the Federal Communications Commission seeking any documents related to him or his dispute with AT&T. He then filed two lawsuits in the District of Columbia complaining about the government's FOIA responses and used these suits as vehicles for serving third-party subpoenas on AT&T entities. Litigation over compliance with the subpoenas occurred in the Northern District of Illinois. Judge Sharon Coleman denied Chelmowski's motion to enforce several of these subpoenas, ruling that he had "not shown any basis in law or in fact for this [c]ourt to allow the request" to "compel discovery from a third-party, AT&T." (citing Minute Entry, *Chelmowski v. FCC*, No. 1:16-cv-5587 (N.D. Ill. Aug. 24, 2016), ECF No. 24.

James Chelmowski v. AT&T Mobility, No. 18-1082 (7th Cir. 2019) available at: <https://law.justia.com/cases/federal/appellate-courts/ca7/18-1082/18-1082-2019-01-09.html>

Based on the office number posted on Jim Chelmowski's (jimchelmowski) Blog, the office phone number and commercial address provided in above-mentioned FOIA requests, and litigation history associated with this phone number, the EPA National FOIA Office believes that all 72 of the FOIA requests and appeals you have submitted to the agency from 2017 to present, seek records to support what the 7th Circuit Court of Appeals characterized as a "never-ending, groundless vendetta over the failed "porting" of your cell-phone number."

3. You Have Repeatedly Stated that You Need the EPA To Respond to Your EPA FOIA Requests in Order to Prepare Filings in Court for Civil Action No. 17-1394.

You have sent the Agency numerous emails stating that your FOIA requests are essentially discovery for a pending litigation. The litigation is Civil Action No. 17-1394, which is tied to your previous disputes with AT&T and your cell phone number. For example, the subject line of the following email message to Agency officials is "RE: Notice of the EPA knowledge of potential Obstructing, negligently concealment, fraudulent concealment, ethic violations, intentional torts, etc. with active DDC 17-cv-1394 which Chelmowski needs to brief with obstructed and concealed knowledge.":

From: (b) (6) <(b) (6)>
Sent: Wednesday, February 3, 2021 12:19 PM
To: Crawford, Tim <Crawford.Tim@epa.gov>; McGuire, Cathy <McGuire.Cathy@epa.gov>; Roberts, Antonio <Roberts.Antonio@epa.gov>; Sabbagh, Bill <sabbagh.bill@epa.gov>; Sanderson, Bobby <sanderson.bobby@epa.gov>; Kelly, Lee <Kelly.Lee@epa.gov>; McKinney, Robert <mckinney.robert@epa.gov>; Earle, Judy <Earle.Judy@epa.gov>; Green, LindaE <Green.LindaE@epa.gov>; Rementer, Nicole <rementer.nicole@epa.gov>; Albright, Scott <Albright.Scott@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Blair, Shirley <Blair.Shirley@epa.gov>; Bossard, Justin <bossard.justin@epa.gov>; Kaminer, Joan

<Kaminer.Joan@epa.gov>; Altendorfer, Ian <Altendorfer.Ian@epa.gov>; Perrin, Michael <Perrin.Michael@epa.gov>; Hill, Kevin <hill.kevin@epa.gov>; Stilp, Mark <Stilp.Mark@epa.gov>; Kerwin, Courtney <Kerwin.Courtney@epa.gov>; Spears, Rasheena <spears.rasheena@epa.gov>; Pickell, Casey <pickell.casey@epa.gov>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>; Nishida, Jane <Nishida.Jane@epa.gov>; Packard, Elise <Packard.Elise@epa.gov>; Christofel, Dave <Christofel.David@epa.gov>; Levine, Scott <Levine.Scott@epa.gov>

Cc: OIP.ComplianceInquiry@usdoj.gov

Subject: RE: Notice of the EPA knowledge of potential Obstructing, negligently concealment, fraudulent concealment, ethic violations, intentional torts, etc. with active DDC 17-cv-1394 which Chelmowski needs to brief with obstructed and concealed knowledge

Importance: High

Dear Robert McKinney, Judy Earle and all EPA staff and attorneys including all EPA involved with any of my FOIA and Privacy Act Requests.

I am still waiting for all my past due FOIA and/or Privacy Act requests and appeals. Please immediately provide all past due requests and dates the EPA will finally comply with their mandatory duties.

Please all recipients confirm receipt in case this needs to be a record of the Court Because the EPA denies receipt of many of my emails. I need all EPA recipients to confirm Read Receipt in case these communications need to go to Court.

EPA and all it's staff are required to perform their mandatory duties by federal law, regulations, directives, policies and procedures.

This email will confirm this Notice to the EPA Attorneys and Staff to Notify Judge James Boasberg of your firsthand knowledge of material facts in the FOIA before this Court being concealed by the EPA, and any attorney ethic violations and/or EPA ethic violations.

As the EPA knows, I needed to request another extension because the EPA is obstructing, and/or negligently concealing, and/or fraudulently concealing these FOIA and/or Privacy Act responsive records.

U.S. District Court

District of Columbia

Notice of Electronic Filing

The following transaction was entered on 2/1/2021 at 1:51 PM EDT and filed on 2/1/2021

Case Name: CHELMOWSKI v. UNITED STATES OF AMERICA

Case Number: 1:17-cv-01394-JEB

Filer:

Document Number: No document attached

Docket Text:

MINUTE ORDER GRANTING Plaintiff's [77] Motion for Extension of Time. The Court ORDERS that: 1) Plaintiff shall file his Opposition and any Cross-Motion for Summary Judgment by February 8, 2021; 2) Defendants shall file their combined Reply and any Opposition by March 8, 2021; and 3) Plaintiff shall file any Reply by

April 8, 2021. The Court further ORDERS that Plaintiff's [76] Motion for Extension of Time is DENIED as superseded. So ORDERED by Judge James E. Boasberg on 2/1/2021. (lcjeb1)

I conclude that the FOIA litigation with EPA, Civil Action No. 17-1394, is tied to the ongoing cell phone number vendetta, because EPA-HQ-2017-008255 is one of the requests that is the subject of your litigation, and sought EPA's processing records related to "*Chelmowski v. FCC*, No.16 cv 5587 (N.D. Ill)."

Description See attached file for complete FOIA/PA request I am requesting ALL EPA responsive records pursuant to both FOIA 5 USC 552 and Privacy Act 5 USC 552a regarding me the Requestor James Chelmowski. Search Period: 5/1/16 to 6/9/17

Description of Records Sought: EPA communication records including internal and external emails, phone & meeting logs, notes, correspondence, etc. during the search period related to the requester James Chelmowski (search with all name permutations such as Chelmowski, Mr. Chelmowski, James Chelmowski & Jim Chelmowski, etc.) and including searches on misspellings like the ones NARA used Chelmowsky, Chelmoski and all communications internal and external emails, logs, notes correspondence, etc. related to my EPA FOIA requests EPA-HQ-2016-009708, EPA-HQ-2017-005390 (all abbreviations like EPA-HQ-2016-9708, EPA-HQ-2017-9708) and all communications internal and external emails, logs, notes, correspondence, etc. associated with *Chelmowski v. FCC*, No. 16 c 5587 (N.D. Ill) & May 2016 District Court Subpoena EPA never responded to (see attached). Privacy Act/FOIA search must include internal and external emails, notes, conversation & meeting logs and correspondence databases Including Office of General Counsel (database) and Office of Environmental Information (database); EPA- 22 "Correspondence Management System (CMS)"; EPA-9 "FOIA Requests and Appeal Files" and all non-published email and/or correspondence databases. Plus, any other EPA email systems (including but not limited to the mandate central email system of records which mandated all agencies must implement on or before 12/31/16). Include any request for communications deletions or archives for records regarding me. Must include but not limited to individual emails, notes, logs & correspondence to and from Mark Stilp, Larry Gottesman, Judy Earle, Kevin Minoli, Elise Packard, Justin Schwab, David Fotouhi, Richard Albores, Wendy Schumacher, Judith Lewis and any other EPA staff,.

Your communications to the Agency indicate that your currently open FOIA requests are essentially discovery for your pending litigation in Civil Action No. 17-1394. In fact, since January 4, 2021, the National FOIA Office email inbox received twelve e-mail messages from you (b) (6) about your open FOIA requests that either refer to or reference Civil Action No. 17-1394.

Per EPA FOIA Regulations, the National FOIA Office concludes that you "will put the records requested [in each of the requests above] to a commercial use, either because of the nature of the request itself or because the Agency has reasonable cause to doubt your stated use." Specifically, EPA has reason to believe that you are seeking the information to support litigation related to your commercial

interests.

Clocks Remained Stopped for Fee Discussions

For each request, the Agency will or has provided you with a Fee Estimate at the commercial rate for the remaining work to be completed. The clocks will remain stopped until you provide assurance of payment (agree to the charges).

The agency will evaluate any new requests you submit on a case-by-case basis for the appropriate fee category.

If you have any questions about the contents of this letter, please contact Denise A. Walker at walker.denise@epa.gov or by phone at (202) 564-6520.

As stated above, you may seek assistance from EPA's FOIA Public Liaison at hq.foia@epa.gov or call (202) 566-1667. You may also seek assistance from (OGIS). You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001; email: ogis@nara.gov; telephone: (202) 741-5770 or (877)684-6448; or fax: (202) 741-5769.

Sincerely,

/s/ Denise A. Walker
Denise A. Walker, Esq.
Office of General Counsel

APPENDIX A:

From: Walker, Denise
Sent: Thursday, March 4, 2021 10:17 AM
To: (b) (6) FOIA HQ <FOIA_HQ@epa.gov>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>
Cc: OIP.ComplianceInquiry@usdoj.gov; ogis@nara.gov; Epp, Timothy <Epp.Timothy@epa.gov>
Subject: RE: This is my Timely Required Response by the EPA and Denise Walker - Re: EPA Commercial Fee demands for Records Regarding me by the EPA and still Waiting for my Rights Required by the EPA pursuant 5 USC 552(l) Public Liaison written response to the 6 it

Dear Mr. Chelmowski:

Thank you for providing the response to my letter (Re: Fee category for Freedom of Information Act (FOIA) requests: Clock Stopped for Fees. Please submit further clarification. Dated February 12, 2021) below.

The National FOIA Office will review and consider your submission and send you a follow-up letter within 2 weeks.

Our FOIA Public Liaison, Mr. Epp, has offered to meet with you or to identify another supervisor for you to meet with to assist you with your concerns. I have copied him on this response.

If you would like to call to arrange a time to meet, either Tim or I are happy to speak to you. You may Also Call OGIS at 202-741-5770.

Best,
Denise A. Walker
202-564-6520

From: (b) (6) <(b) (6)>
Sent: Wednesday, March 3, 2021 5:14 PM
To: FOIA HQ <FOIA_HQ@epa.gov>; Walker, Denise <Walker.Denise@epa.gov>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>
Cc: OIP.ComplianceInquiry@usdoj.gov; ogis@nara.gov
Subject: This is my Timely Required Response by the EPA and Denise Walker - Re: EPA Commercial Fee demands for Records Regarding me by the EPA and still Waiting for my Rights Required by the EPA pursuant 5 USC 552(l) Public Liaison written response to the 6 items
Importance: High

Dear EPA FOIA Office, EPA Denise Walker, and EPA Chief FOIA Officer Melissa Hoffer.

Please confirm receipt of this timely response or I will email this every few hours until I received writing confirmation of this timely response and when I will be receiving my rights pursuant FOIA law 5 USC 552(l) because of the EPA deadline of March 4, 2021 and the EPA & EPA FOIA Public Liaison Timothy Epp are denying my rights pursuant to federal law.

As EPA Denise Walker February 12, 2021 letter states "As stated above, you may seek assistance from EPA's FOIA Public Liaison" which I did and sent repeated emails for Public Liaison response for 6 items in writing which Timothy Epp has not responded to the 6 items yet. Ms. Walker and EPA have been recipients of these emails and are included and further documented after this email.

Therefore, I am still waiting for my rights as Ms. Walker stated on February 12, 2021 and pursuant to Federal law 5 USC 552(l) for the EPA provide response to my written response regarding the 6 issues in my Official FOIA Public Liaison request (see email Chain).

This is my required response by the EPA and EPA Denise Walker in her February 12, 2021 letter, that EPA legal authority to require this response by March 4, 2021.

The EPA attorneys Scott Albright and Kevin Miller reviewed requests and confirmed that I was an "Other" fee category beginning in 2018. This only changed on December 17, 2020 the day the EPA Denise Walker provided a full denial on FOIA and Privacy Act request # EPA-2021-000337 (EPA has not provide me the Privacy Act control number) for the EPA federal records regarding alleged EPA FOIA and Privacy

Act searches on my FOIA and Privacy Act Requests.

I will update this response as soon as either EPA FOIA Public Liaison Timothy Epp and/or EPA Chief FOIA Officer Melissa Hoffer provide responses to ALL 6 items in my Official FOIA Public Liaison Request would help decide my fee category to my rights pursuant to federal laws of FOIA and Privacy Act.

As you and the EPA know, prior to December 17, 2020 EPA classified me as an "Other" Requester including "first-party" FOIA and Privacy Act requests, this "Commercial" classification change came within an hour of the December 17, 2020 EPA Denise Walker full denial of FOIA Request EPA-2021-000337 Response for the EPA communications regarding the EPA alleged FOIA and Privacy Act searches. The EPA Denise Walker full denial of the October 16, 2021 FOIA and Privacy Act request EPA-2021-000337 for the EPA communications regarding the EPA's alleged FOIA and Privacy Act searches, she minutes before categorized me as "Other" fee category. Then within an hour the EPA and Denise Walker changed my FOIA Fee Category from "Other" to "Commercial".

As you and EPA know, my FOIA Public Liaison Request that must be addressed include the following items in writing.

Provide the federal laws, regulations that give the EPA legal authority of beginning to be categorizing me as a Commercial request on or about December 30, 2020. All six dispute items must be in the FOIA Public Liaison response letter by the EPA. These items are not the FOIA request. These are disputed items in this Official FOIA Public Liaison mediation request.

1. Provide the EPA and FOIA requirements for the phone numbers and mailing address in FOIAonline to obtain EPA records regarding the Requesters to be considered a "Other" or "Commercial" requester.
2. That a cell phone on FOIAonline makes the requester a Commercial requester. Which are the requesters only phone number cannot used as FOIA phone number.
3. The EPA legal authority of a FOIA requesting the EPA federal records regarding him is considered Commercial Requester.
4. The EPA has legal authority to charge for records regarding the Requester in the EPA Privacy Act System of Records.
5. That a FOIA and Privacy Act Requester is not entitled to the EPA federal records related to him under the FOIA and Privacy Act and the EPA must comply with federal laws, regulations, directives, policies, and procedures to provide these EPA federal records related to him.
6. The EPA does not need to do as the EPA stated to the Department of Justice in their FOIA Annual Report that the EPA defines FOIA requests That first party requesters should be afforded the benefit of both access provisions of the FOIA as well as those of the Privacy Act.

Please explain in detail exactly what needs to be negotiated in these 6 items by March 4, 2021.

With ALL YOUR QUESTIONS ON EXACTLY WHAT YOU NEED TO NEGOTIATION IN WRITNG.

Please confirm in writing the receipt of this email meeting the EPA and Denise Walker's deadline.

Provide me the date the EPA FOIA Public Liaison will provide response in writing to each of these 6 items in my FOIA Public Liaison request which the Federal laws and you confirmed that I have this right.

Sincerely,

James Chelmowski

FOIA and Privacy Act Requester

FOIA Public Liaison Request

FOIA Public Liaison Request

From: (b) (6) <(b) (6)>

Sent: Tuesday, March 2, 2021 7:53 AM

To: 'Epp, Timothy' <Epp.Timothy@epa.gov>; 'foia@fcc.gov' <foia@fcc.gov>; 'Roberts, Antonio' <Roberts.Antonio@epa.gov>; 'Walker, Denise' <Walker.Denise@epa.gov>; 'National Privacy Program' <privacy@epa.gov>; 'Crawford, Tim' <Crawford.Tim@epa.gov>; 'Hoffer, Melissa' <Hoffer.Melissa@epa.gov>; 'Nishida, Jane' <Nishida.Jane@epa.gov>; 'Packard, Elise' <Packard.Elise@epa.gov>

Cc: 'OIP.ComplianceInquiry@usdoj.gov' <OIP.ComplianceInquiry@usdoj.gov>; 'ogis@nara.gov' <

ogis@nara.gov>

Subject: RE: Official FOIA Public Liaison mediation request with 6 items in dispute - These are not FOIA request questions. This is a FOIA Public Liaison Dispute Mediation Request!

Importance: High

Dear EPA's FOIA Public Liaison Timothy Epp and the EPA's Chief FOIA Officer Melissa Hoffer.

This email stops the tolling on all FOIA and Privacy Act requests with the EPA. The EPA must comply with FOIA federal law and my right to FOIA Public Liaison Request on these 6 items. 5 USC 552(I). The EPA Chief FOIA Officer has responsibility of the EPA Public Liaison.

Please explain in detail exactly what needs to be negotiated in these 6 items by March 4, 2021.

With ALL YOUR QUESTIONS ON EXACTLY WHAT YOU NEED TO NEGOTIATION IN WRITNG.

You can easily put exact details of what you want to negotiate in writing of the 6 items unless you do not want a documented history of the TRUE Facts. So, you and the EPA want to provide false statements.

I look forward to the details of exactly what needs to be negotiated or the EPA FOIA Public Liaison response to ALL 6 items by March 4, 2021 in writing.

As you know and documented on April 25, 2019 that the EPA has my preference of communications through emails not phone calls so communication would be documented in writing. You also sent your April 25, 2019 email to the EPA Administrator Andrew Wheeler and EPA General Counsel & EPA Chief FOIA Officer Matthew Leopold to document this email and my preference as a fact with the EPA. You have that email and is a Federal Record with the EPA. Your April 25, 2019 email to me is an official EPA federal record in the EPA email system and should be also stored in the EPA Privacy Act System of Records EPA-22 Correspondence Management System.

You repeatedly demand ONLY phone calls after April 25, 2019. I repeatedly request everything in writing which you repeatedly refuse. Which proves why all communications between the EPA and I MUST BE in writing. Which is documented as fact in the EPA federal record of your April 25, 2019 email to Andrew Wheeler, Matthew Leopold and me.

Therefore, in writing. What Exactly needs to be Negotiated?

I am not Congress and I have no legal authority to create new Federal Laws. So, I cannot negotiate federal laws with the EPA.

I am not the EPA who stated alleged facts to the Department of Justice (DOJ) and Attorney General (AG) on how they processed the EPA first party FOIA requests. 5 USC 552(e). So, I cannot negotiate what the EPA stated as alleged facts to the DOJ and AG with the EPA.

Which the EPA repeatedly stated as fact to the DOJ and AG that firstparty requesters should be afforded the benefit of both access provisions of the FOIA as well as those of the Privacy Act.

Please explain in detail exactly what needs to be negotiated with me in these 6 items. Put ALL YOUR QUESTIONS ON EXACTLY WHAT YOU NEED TO NEGOTIATION IN WRITNG.

OFFICIAL FOIA PUBLIC LIAISON DISPUTE MEDIATION BY 5 USC 552 CONSISTS OF THE FOLLOWING 6 (SIX) Items as follows:

Provide the federal laws, regulations that give the EPA legal authority of beginning to be categorizing me as a Commercial request on or about December 30, 2020. All six dispute items must be in the FOIA Public Liaison response letter by the EPA. These items are not the FOIA request. These are disputed items in this Official FOIA Public Liaison mediation request.

Provide the EPA and FOIA requirements for the phone numbers and mailing address in FOIAonline to obtain EPA records regarding the Requesters to be considered a "Other" or "Commercial" requester. That a cell phone on FOIAonline makes the requester a Commercial requester. Which are the requesters only phone number cannot used as FOIA phone number.

The EPA legal authority of a FOIA requesting the EPA federal records regarding him is considered Commercial Requester.

The EPA has legal authority to charge for records regarding the Requester in the EPA Privacy Act System of Records.

That a FOIA and Privacy Act Requester is not entitled to the EPA federal records related to him under the FOIA and Privacy Act and the EPA must comply with federal laws, regulations, directives, policies, and procedures to provide these EPA federal records related to him.

The EPA does not need to do as the EPA stated to the Department of Justice in their FOIA Annual Report that the EPA defines FOIA requests That first party requesters should be afforded the benefit of both access provisions of the FOIA as well as those of the Privacy Act.

Please explain in detail exactly what needs to be negotiated in these 6 items by March 4, 2021.

With ALL YOUR QUESTIONS ON EXACTLY WHAT YOU NEED TO NEGOTIATION IN WRITNG.

You can easily put exact details of what you want to negotiate in writing of the 6 items unless you do not want a documented history of the TRUE Facts. So, you and the EPA want to provide false statements.

I look forward to the details of exactly what needs to be negotiated or the EPA FOIA Public Liaison response to ALL 6 items by March 4, 2021 in writing.

Sincerely,

James Chelmowski

FOIA and Privacy Act Requester

From: Epp, Timothy <Epp.Timothy@epa.gov>

Sent: Monday, March 1, 2021 10:32 AM

To: (b) (6) <foia@fcc.gov>; Roberts, Antonio <Roberts.Antonio@epa.gov>; Walker, Denise <Walker.Denise@epa.gov>; National Privacy Program <privacy@epa.gov>; Crawford, Tim <Crawford.Tim@epa.gov>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>; Nishida, Jane <Nishida.Jane@epa.gov>; Packard, Elise <Packard.Elise@epa.gov>

Cc: OIP.ComplianceInquiry@usdoj.gov; ogis@nara.gov

Subject: RE: Official FOIA Public Liaison mediation request with 6 items in dispute - These are not FOIA request questions. This is a FOIA Public Liaison Dispute Mediation Request!

Dear Mr. Chelmowski,

Thank you for reaching out to request EPA's FOIA Public Liaison mediation services in connection with your disputes identified in your email copied below. Please provide several times you would be available for a telephone call this week along with your telephone number. If you want, I can have another EPA supervisor talk with you to serve as EPA's Public Liaison on this matter.

Please note that the FOIA does not require EPA to answer your questions; it only requires release of records (subject to certain limitations) in response to a proper request under the FOIA. The Public Liaison provisions of the FOIA do not entitle requesters to demand answers to their questions. The Public Liaison service is a dispute resolution service through which we apply interest-based negotiation methods and techniques to attempt to resolve disputes outside of litigation. Because the Public Liaison service is an interest-based negotiation process designed to explore opportunities for mutually agreeable resolution, neither EPA nor you will be bound until agreement is reached. Any agreement reached through the negotiation process would be documented in writing and you will be in full control of whether to agree to the written terms of the agreement. The process of exploring opportunities for consensual resolution does not need to be in writing –indeed, demanding that it be conducted in writing can chill the open and frank communication needed for interest-based negotiation and exploration of potential options for agreement.

I look forward to talking with you regarding your interests in an effort to find a mutually agreeable resolution to your concerns.

Tim

Timothy R. Epp

Associate General Counsel|[National FOIA Office](mailto:National.FOIA@epa.gov)

U.S. Environmental Protection Agency | Office of General Counsel

1200 Pennsylvania Avenue, N.W. (MC 2310A)

Washington, D.C. 20460 | WJCN 7309B

Phone (202) 564-2830 | epp.timothy@epa.gov

From: (b) (6) <(b) (6)>

Sent: Monday, March 01, 2021 9:59 AM

To: Epp, Timothy <Epp.Timothy@epa.gov>; foia@fcc.gov; Roberts, Antonio <Roberts.Antonio@epa.gov>; Walker, Denise <Walker.Denise@epa.gov>; National Privacy Program <privacy@epa.gov>; Crawford, Tim <Crawford.Tim@epa.gov>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>; Nishida, Jane <Nishida.Jane@epa.gov>; Packard, Elise <Packard.Elise@epa.gov>

Cc: OIP.ComplianceInquiry@usdoj.gov; ogis@nara.gov

Subject: Official FOIA Public Liaison mediation request with 6 items in dispute - These are not FOIA request questions. This is a FOIA Public Liaison Dispute Mediation Request!

Importance: High

Dear EPA, EPA's FOIA Public Liaison, and EPA's Chief FOIA Officer.

I am not a Commercial requester in fact the EPA confirmed that in at least one FOIA Appeal determination and EPA properly classified me as an "Other" requester. Then beginning on or about December 30, 2020, EPA apparent negligent and/or fraudulent concealment scheme of the EPA federal records regarding me classified me as "Commercial" requester contradicting EPA's Official Appeal determinations that I was an "Other" after EPA reviewed my status in the past. The EPA is using the new classification (beginning on or about December 30, 2020) calling me a "Commercial" requester to conceal the EPA's federal records regarding me and denying my rights by federal laws including FOIA and Privacy Act.

This is an Official Public Liaison Dispute Request and requires a signed FOIA Public Liaison response to the 6 items disputed. This is not FOIA request questions. This is a FOIA Public Liaison Dispute Mediation Request!

FOIA and Privacy Act Request EPA-2021-002747 would Confirm Who Created the False and Possibly Forged FOIA Appeal control Number EPA-2021-002054

The EPA would not respond to my emails regarding this False Appeal to change my Factual Appeal # EPA-2021-002012.

The EPA created this false Appeal on January 19, 2021 and back dated this to January 15, 2021. It appears this might even be a criminal act of forgery. This so the EPA can conceal the EPA federal records regarding me that I requested on October 16, 2020 through my rights by the federal laws of FOIA and Privacy Act.

OFFICIAL FOIA PUBLIC LIAISON DISPUTE MEDIATION BY 5 USC 552 CONSISTS OF THE FOLLOWING 6 (SIX) Items

Provide the federal laws, regulations that give the EPA legal authority of beginning to be categorizing me as a Commercial request on or about December 30, 2020. All six dispute items must be in the FOIA Public Liaison response letter by the EPA. These items are not the FOIA request. These are disputed items in this Official FOIA Public Liaison mediation request.

Provide the EPA and FOIA requirements for the phone numbers and mailing address in FOIAonline to obtain EPA records regarding the Requesters to be considered a "Other" or "Commercial" requester. That a cell phone on FOIAonline makes the requester a Commercial requester. Which are the requesters only phone number cannot used as FOIA phone number.

The EPA legal authority of a FOIA requesting the EPA federal records regarding him is considered Commercial Requester.

The EPA has legal authority to charge for records regarding the Requester in the EPA Privacy Act System of Records.

That a FOIA and Privacy Act Requester is not entitled to the EPA federal records related to him under the FOIA and Privacy Act and the EPA must comply with federal laws, regulations, directives, policies, and procedures to provide these EPA federal records related to him.

The EPA does not need to do as the EPA stated to the Department of Justice in their FOIA Annual Report that the EPA defines FOIA requests That first-party requesters should be afforded the benefit of both access provisions of the FOIA as well as those of the Privacy Act.

FACTS

EPA FOIA Annual Reports to the Department of Justice

Did the EPA provide false statements to the Department of Justice in their EPA FOIA Annual Report with associated raw date?

The EPA stated as facts to the Department of Justice (DOJ) in the EPA FOIA Annual report with associated raw data regarding EPA FOIA request including EPA processed all firstparty requesters should be afforded the benefits of both access provisions of the FOIA as well as those of the Privacy Act: FOIA Request a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a "thirdparty" request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., "firstparty" requests) when those requesters are not subject to the Privacy Act, such as nonU.S. citizens. Moreover, because all firstparty requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any firstparty requests where an agency determines that it must search beyond its Privacy Act "systems of records" or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report.

Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.)

Chelmowski has been classified as an "Other" requester NOT "Commercial" from 2016 to about December 29, 2020

The EPA from my first FOIA Request in 2016 until about December 29, 2020 has categorized me as an "Other" FOIA requester. The EPA even reviewed and confirmed my classification as an "Other" requester in at least FOIA Appeal determination.

On or about December 30, 2020, the EPA stating I am a "Commercial Requester" when I am filing FOIA and Privacy Act requests for the EPA records regarding me.

I have always been categorized as an "Other Requester" since 2016 with the EPA this is clearly a concealment scheme by the EPA to conceal the EPA federal records regarding me.

This was Just After the EPA refused to Provide a Clarification Letter with an EPA staff Member's Name on it

This was just about a week or two after the EPA refused to provide the October 21, 2020 Clarification letter with an EPA name on it for FOIA/PA EPA-2021-000337. The EPA repeatedly denied providing the name of the person responsible for this letter on the letter. Then on December 17, 2020 EPA denied this Request. My fee category was "Other" for EPA-2021-000337.

Now, the EPA wants to conceal these facts from my FOIA and/or Privacy Act requests by not correctly processing and providing the responsive records. So, on December 30, 2020 began outrageous fees and categorizing me as "Commercial" requester trying to obtain the EPA federal records regarding me. Clearly a concealment scheme.

In October, November, and/or December 2020, the EPA appears to have decided to not produce responsive records for my FOIA and/or Privacy Act responsive records.

FOIAonline signup did not request home phone numbers or home addresses.

See FOIAonline "Create a Public Account" below from the EPA's FOIAonline instructions nothing states:

James Chelmowski's True Relationship with the EPA

The EPA knows the relationship with the EPA and me began in 2015. When I created an account for FOIAonline like tens of thousands other FOIAonline users per my rights as US citizen.

I have my federal rights to both the FOIA and Privacy Act Request. Under both laws I have the right to EPA federal records including EPA's Privacy Act System of Records EPA-9 "FOIAonline" and the EPA communications regarding me.

My relationship with the EPA is like many thousands of FOIAonline users. Those FOIAonline users and I have their/my rights to the EPA federal records related to them including but not limited to the EPA Privacy Act system of records regarding them.

Summary

Provide the federal laws, regulations that give the EPA legal authority of beginning to be categorizing me as a Commercial request on or about December 30, 2020. All six dispute items must be in the FOIA Public Liaison response letter by the EPA. These items are not the FOIA request. These are disputed items in this official FOIA Public Liaison mediation request.

Provide the EPA and FOIA requirements for the phone numbers and mailing address in FOIAonline to

obtain EPA records regarding the Requesters to be considered a "Other" or "Commercial" requester. That a cell phone on FOIAonline makes the requester a Commercial requester. Which are the requesters only phone number cannot used as FOIA phone number.

The EPA legal authority of a FOIA requesting the EPA federal records regarding him is considered Commercial Requester.

The EPA has legal authority to charge for records regarding the Requester in the EPA Privacy Act System of Records.

That a FOIA and Privacy Act Requester is not entitled to the EPA federal records related to him under the FOIA and Privacy Act and the EPA must comply with federal laws, regulations, directives, policies, and procedures to provide these EPA federal records related to him.

The EPA does not need to do as the EPA stated to the Department of Justice in their FOIA Annual Report that the EPA defines FOIA requests That first-party requesters should be afforded the benefit of both access provisions of the FOIA as well as those of the Privacy Act.

Please provide response to ALL (6) six items above ASAP.

Sincerely

James Chelmowski

FOIA and Privacy Act Request

From: roberts.antonio@epa.gov <roberts.antonio@epa.gov>

Sent: Wednesday, February 24, 2021 4:31 PM

To: (b) (6)

Subject: Estimate Cost Notice EPA-2021-002747

We estimate that the cost to find responsive records will be approximately \$65.25. This estimate is based on about 0.50 of Search, and 1.25 of Review.

From: foia_hq@epa.gov <foia_hq@epa.gov>

Sent: Wednesday, February 24, 2021 4:26 PM

To: (b) (6)

Cc: Buchsbaum.Seth@epa.gov

Subject: EPA-2021-002747 Proposed Response and Fee Estimate - Clock Stopped for Assurance of Payment

Dear Mr. Chelmowski:

I hope this finds you well.

Please see the attached correspondence.

Best,

Denise A. Walker

202-564-6520

EPA National FOIA Office

02/23/2021

Mr. James Chelmowski

(b) (6) (b) (6)

(b) (6)

(b) (6) (b) (6)

(b) (6)

RE: Freedom of Information Act Request - EPA-2021-002747

Hello,

This letter concerns the above-mentioned Freedom of Information Act (FOIA) request, submitted to the U.S. Environmental Protection Agency (EPA), National FOIA Office (NFO) on 02/22/2021. You are seeking the following records: FOIA and Privacy Act Request for all EPA FOIAonline EPA Privacy Act System of records EPA-9 for FOIA Request EPA-2021-000337; and FOIA Appeals EPA-2021-002012 and EPA-2021-002054. Therefore, EPA system manager Tim Crawford must provide a Privacy Act search of EPA-9 "FOIAonline" for ALL FOIAonline internal and external records for this FOIA request and two FOIA Appeals. The EPA must process this request under both FOIA and Privacy Act. The EPA stated as facts to the Department of Justice (DOJ) in the EPA FOIA Annual report with associated raw data regarding EPA FOIA request including EPA processed all first-party FOIA as both FOIA and Privacy Act requests for greater access to records like many filed by James Chelmowski: g.

FOIA Request - a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a "third-party" request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., "firstparty" requests) when those requesters are not subject to the Privacy Act, such as non-U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act "systems of records" or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report. Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.).

Your FOIA request was assigned for processing. If you have any questions about your request, please contact the office mentioned below and reference your FOIA request tracking number EPA-2021-002747.

Office of General Counsel FOIA Program: You may contact OGC's Denise Walker at (202) 564-6520 or via email at Walker.Denise@epa.gov.

If you need any further assistance or would like to discuss any aspect of your request, you may seek assistance from EPA's FOIA Public Liaison at hq.foia@epa.gov or call (202) 566-1667. You may also seek assistance from the Office of Government Information Services (OGIS). You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001; email: ogis@nara.gov; telephone: (202) 741-5770 or (877) 684-6448; or fax: (202) 741-5769. For all media inquiries, please contact press@epa.gov.

Sincerely,

National FOIA Office
U.S. Environmental Protection Agency



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
GENERAL COUNSEL

January 22, 2020

Mr. James Chelmowski

(b) (6) (b) (6) (b) (6)
(b) (6) (b) (6)

Re: Correspondence pertaining to Freedom of Information Act (FOIA) requests:

EPA-2021-002014
EPA-2021-001511
EPA-2021-001307
EPA-2021-001305
EPA-2021-001196
EPA-2021-000954
EPA-2021-000819
EPA-2020-002945
EPA-HQ-2019-000736
EPA-HQ-2019-000386

Dear Mr. Chelmowski:

This letter concerns the above-referenced open FOIA requests, received by the U.S. Environmental Protection Agency (EPA or Agency).

Correspondence in FOIAonline

It has come to our attention that you may be uploading text into FOIAonline via the correspondence section of FOIAonline. Please note that EPA staff are not notified when you take these actions. We are looking into this feature in FOIAonline as we do not believe it was intended to function in this way. In the meantime, if you would like to communicate in writing with the agency about the requests listed above or any other requests or appeals, please email the EPA staff person assigned to the request and cc FOIA_HQ@epa.gov. Please be sure to include the FOIA tracking ID in the subject line of your email.

Ongoing Email Exchanges

We appreciate your participation in EPA's FOIA program. However, please understand that the FOIA does not require Agency staff to respond to your numerous questions about EPA decision-making or demands for email return receipts from the EPA staff recipients of your many emails.

EPA receives many FOIA requests each week. While we are happy to process and respond to your properly submitted information requests, please understand that our staff cannot engage in ongoing email exchanges with you to respond to questions about EPA's decision-making rationale, *or provide read requests*. If you are unsatisfied with the FOIA process, you are free to contact the Office of Government Information Services (OGIS), contact the EPA Public Liaison, or in certain circumstances you may file an administrative appeal or litigation.

Requests for Records or Information to Support Claims in Your Ongoing Litigation.

Finally, as you are aware, EPA is represented by counsel from the Department of Justice in your FOIA case against EPA. If you require a document related to your pending case please contact the Assistant United States Attorney representing the EPA.

If you have any questions about the contents of this letter, please contact Denise Walker at walker.denise@epa.gov or by phone at (202) 564-6520.

As stated above, you may seek assistance from EPA's FOIA Public Liaison at hq.foia@epa.gov or call (202) 566-1667. You may also seek assistance from(OGIS) . You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001; email: ogis@nara.gov; telephone: (202) 741-5770 or (877)684-6448; or fax: (202) 741-5769.

Sincerely,

/s/ Denise A. Walker
Denise A. Walker, Esq.
Office of General Counsel



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

OFFICE OF
GENERAL COUNSEL

May 13, 2021

James Chelmowski

(b) (6) (b) (6) (b) (6)
(b) (6) (b) (6)

Re: Freedom of Information Act (FOIA) Appeal EPA-2021-003738
(EPA-2021-002747)

Dear Mr. Chelmowski:

I am responding to your April 15, 2021, Freedom of Information Act (FOIA) appeal, which challenged the EPA National FOIA Office's (NFO) March 18, 2021, decision to close your FOIA request after you failed to provide an assurance of payment to cover processing costs related to your request. Your FOIA request was submitted on February 22, 2021 and designated HQ-2021-002747.¹ In a February 24, 2021 letter, the NFO informed you that processing your FOIA request would cost an estimated \$65.25 in search and review fees. The NFO based the estimate using the rates found at 40 C.F.R. § 2.107(c)(2)(i)(B) for requesters placed in the "commercial" fee category. The February 24, 2021 letter sought a written assurance of payment pursuant to EPA's FOIA regulations and further offered to discuss the scope of your request and reformulating the scope to meet your needs at a lower cost. You failed to provide an assurance of payment and the NFO closed your request. Your April 15, 2021 appeal challenges the NFO's placement of you in the "commercial" requestor fee category.

I have carefully considered your challenge to your placement in the "commercial" fee category, including your FOIA request, EPA's communications with you concerning your fee category, your responses to EPA, and your appeal. For the reasons set forth below, I have concluded that you were properly placed in the "commercial" fee category and that your appeal should be, and is, denied.

Background

Your FOIA request, designated HQ-2021-002747, requested information about a FOIA request you previously submitted (EPA-2021-000337) and two related FOIA appeals (EPA-2021-002012 and EPA-2021-002054):

[F]or the entire internal and external EPA FOIAonline Privacy Act System of records EPA-9 for FOIA/PA Request EPA-2021-000337; and FOIA Appeals EPA-2021-002012 and EPA-2021-002054. Must include everything in FOIAonline internal and external who created the request and appeals, all notes, comment, emails, tasks ... [ellipsis in

¹ You submitted your FOIA request through FOIAonline, which is the Agency's system for accepting FOIA requests. 40 C.F.R. § 2.101(a)(1). Therefore, the Agency is treating your request as a FOIA request.

original] the entire FOIAonline record. Everything associated with this request and appeals contained in FOIAonline Privacy Act System of Records EPA-9.

Mr. James Chelmowski Modified Request at 1. FOIA request EPA-2021-000337, the FOIA request that is a subject matter of the underlying request at issue here, was closed on December 20, 2020 as an improper request after you failed to provide clarification. As you explained, the purpose of FOIA request EPA-2021-000337 was for litigation discovery for a pending case, *Chelmowski v. United States*, 17-cv-1394 (D.D.C.). Email dated 11/4/2020 from James Chelmowski to Antonio Roberts (Explaining “[a]s you know these FOIA responsive records are material facts I need for my November brief to Judge Boasberg in DDC 17-cv-1394 ...”). As noted, your request also includes as subject matters two FOIA Appeals, EPA-2021-002012 and EPA-2021-002054, which appealed the disposition of EPA-2021-000337.

By letter dated February 24, 2021, the NFO sought an assurance of payment for request EPA-2021-002747 based on the commercial category and using an estimate for .50 hours for search and 1.25 hours for review. Letter from Denise Walker to James Chelmowski dated Feb. 24, 2021. The February 24, 2021 letter explained that, “EPA has stopped the processing clock for your request. It will remain stopped until you provide the written assurance of payment of \$65.25. If EPA does not receive written assurance of payment or a request for additional time within 20 calendar days of the date of this letter—by close of business on March 16, 2021, EPA will administratively close your request for failure to provide the necessary fee assurance.” *Id.* at 3. The letter further explained that, “If you would like an opportunity to discuss the scope of your request and reformulate it to meet your needs at a lower cost, or if the proposal above will not meet your needs and you would like the opportunity to discuss and modify,” to contact the NFO. *Id.*

Additionally, the NFO sent a letter dated March 15, 2021 explaining the basis for placing you in the commercial category for this request. Letter from Denise Walker to James Chelmowski (attached as Exhibit 1).² The March 15, 2021 letter explained that the NFO previously contacted you by letter dated February 12, 2021 to provide an opportunity to submit information concerning your fee category. The March 15, 2021 letter further described your several responses to the February 12, 2021 letter concerning your fee category. The March 15, 2021 letter then detailed why you were placed in the commercial category.

In its March 15, 2021 letter, NFO explained three primary reasons for placing you in the “commercial” fee category. First, NFO noted that the contact address you provided to the Agency identifies a commercial building rather than a private residence. Second, NFO found that your FOIA requests to EPA were connected to federal district court litigation you first brought against the Federal Communications Commission (FCC) in regard to a business-related, vanity phone number. In a carry-over suit, you later sued the FCC, EPA and the National Archives and Records Administration (NARA) in the pending case *Chelmowski v. United States*, Civil Action No. 17-1394 (D.D.C.) seeking \$2,204,250 in damages related to your arguments that stemmed from the treatment of your business-related phone number. Finally, NFO cited several references you have recently made indicating that recent FOIA requests have essentially been discovery for this pending litigation.

² The March 15, 2021 letter also addressed five other EPA FOIA requests not at issue in this appeal.

Analysis

Commercial use requests are requests from or on behalf of a person who seeks information for a use or purpose that furthers his/her commercial, trade, or profit interests, through litigation or otherwise. 40 C.F.R. § 2.107(b)(1). “The Agency will determine, whenever reasonably possible, the use to which a requester will put the requested records.” 40 C.F.R. § 2.107(b)(1). Requesters in the “other” category are those who are not commercial requestors, educational requesters, or news media requestors. 40 C.F.R. § 2.107(c)(1)(iv).

For the reasons explained in the NFO’s March 15, 2021 letter, your request is for commercial purposes, including attempting to further your commercial interests through litigation. Your appeal raises various arguments, including unsubstantiated claims that the requested records would expose corruption; that a cell phone user is not a commercial requestor; that FOIA online does not require a home address; that the requested records are not used in the mortgage industry; and that EPA must comply with 1987 OMB Fee Guidelines for first party requestors. *See id.* at 3-4.

I find your arguments to be unpersuasive. As NFO provided in its March 15, 2021 decision, your recent communications have been clear that your FOIA requests are seeking records that you believe would further your interests in pending carry-over litigation seeking \$2,204,250 in damages. The contact information identified by NFO, which also relates to your commercial interests, also supports this conclusion. Furthermore, I find your arguments that feature cursory claims concerning various improper behaviors are unsubstantiated and unnecessary to address. Lastly, the NFO properly applied EPA’s regulations, the applicable legal authority, to determine your fee category. Therefore, I find that you were properly placed in the “commercial” fee category for the FOIA request EPA-2021-002747.

Conclusion

This letter constitutes EPA’s final determination on this matter. If you consider this an adverse determination, pursuant to 5 U.S.C. § 552(a)(4)(B), you may obtain judicial review of this determination by filing a complaint in the United States District Court for the district in which you reside or have your principal place of business, or the district in which the records are situated, or in the District of Columbia. Additionally, as part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) within the National Archives and Records Administration was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, Room 2510, 8610 Adelphi Road, College Park, MD, 20740-6001; e-mail, ogis@nara.gov; telephone, 202-741-5770 or 1-877-684-6448; and fax, 202-741-5769.

Sincerely,

KEVIN
MILLER

Digitally signed
by KEVIN MILLER
Date: 2021.05.13
17:22:39 -04'00'

Kevin Miller
Assistant General Counsel
General Law Office



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
GENERAL COUNSEL

December 30, 2020

James Chelmowski

(b) (6) (b) (6) (b) (6)
(b) (6) (b) (6)

Re: Freedom of Information Act Request – EPA-2021-001511
Expedited Processing Determination

Dear Mr. Chelmowski:

This letter concerns the above-referenced Freedom of Information Act (FOIA) request received by the U.S. Environmental Protection Agency (EPA), National FOIA Office (NFO) on December 18, 2020 in which you are seeking the following records:

This is both a Privacy Act 5 USC 552a and FOIA Request 5 USC 552. For all Timothy Epp (all email accounts he uses for EPA business) that contained "Chelmowski" (the FOIA and Privacy Act requester's name) in the subject line, email body, attachment, email metadata from January 1, 2017 to the later of the date of this search and December 18, 2020.

The emails must include emails that Timothy Epp was the sender, one of the recipients and emails Timothy Epps was copied (cc or bcc) as one of the recipients with the Microsoft Office 365 eDiscovery search Certification and Relativity software certifications and records count.

The Search must include the EPA's FOIA centralized search using the Microsoft Office 365 eDiscovery search terms are of course "Chelmowski" to or from all Timothy Epp's email address including but not limited to Epp.Timothy@epa.gov. It is public knowledge that the EPA staff uses multiple email accounts for Federal business (i.e. Federal Records), which are not disclosed to the public.

EPA has received your request for expedited processing. In your justification, you asserted, "1) This FOIA request is urgent for the Public to know how the EPA complies with their mandatory duties by Federal law on EPA Public Liaison requests. The United States Supreme Court has explained that the, "basic purpose of FOIA is to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed." The "FOIA is often explained as a means for citizens to know 'what their Government is up to.'" The Supreme Court stressed that "[t]his phrase should not be dismissed as a convenient formalism." Rather it, "defines a structural necessity in a real democracy." 2) The Requester needs these FOIA responsive records for his Due Process in District Court letting the Public and DC. District Court Judge Honorable James Boasberg know the facts on how the EPA complies with Federal laws. Any EPA delays on producing ALL these FOIA and Privacy Act responsive records should be considered by the

active District Court as concealment and obstruction of material facts and evidence for the Requester to brief in active District Court case 17-cv-1394.” Your request for expedited processing must be evaluated as to whether there is an urgency to inform the public about an actual or alleged Federal government activity by a person primarily engaged in disseminating information to the public, and whether a lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual.

Your application does not speak to any urgency to inform the public and it does not speak to any expectation that lack of expedited treatment would pose an imminent threat to the life or physical safety of an individual. Thus, your request does not contain the information required to support a finding that your request meets either of these criteria. Therefore, your request for expedited processing is denied. Your FOIA request will be processed as expeditiously as possible.

You may appeal this determination by email at hq.foia@epa.gov, or by mail to the EPA’s National FOIA Office, U.S. EPA, 1200 Pennsylvania Avenue, N.W. (2310A), Washington, DC 20460 or through FOIAonline if you are an account holder. If you are submitting your appeal by hand delivery, courier service, or overnight delivery, you must address your correspondence to 1200 Pennsylvania Avenue, N.W., WJC-N Building, Room 7309C, Washington, DC 20460.

Your appeal must be in writing, and it must be received no later than 90 calendar days from the date of this letter. The Agency will not consider appeals *received* after the 90-calendar-day limit. Appeals received after 5:00 p.m. EST will be considered received the next business day. The appeal letter should include the FOIA tracking number listed above. For quickest possible handling, the subject line of your email, the appeal letter, and its envelope, if applicable, should be marked "Freedom of Information Act Appeal."

If you need any further assistance or would like to discuss any aspect of your request, you may seek assistance from EPA’s FOIA Public Liaison at hq.foia@epa.gov or call (202) 566-1667. You may also seek assistance from the Office of Government Information Services (OGIS). You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001; email: ogis@nara.gov; telephone: (202) 741-5770 or (877) 684-6448; or fax: (202) 741-5769. For all media inquiries, please contact press@epa.gov.

Sincerely,



Digitally signed by Nicole
M. Rementer
Date: 2020.12.30
17:01:51 -05'00'

Nicole M. Rementer
Acting Assistant General Counsel
National FOIA Office



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
GENERAL COUNSEL

March 4, 2021

James Chelmowski

(b) (6) (b) (6) (b) (6)
(b) (6) (b) (6)

Re: Freedom of Information Act Request – EPA-2021-002747
Expedited Processing Determination

Dear Mr. Chelmowski:

This letter concerns the above-referenced Freedom of Information Act (FOIA) request received by the U.S. Environmental Protection Agency (EPA), National FOIA Office (NFO) on February 22, 2021 in which you are seeking the following records: “FOIA and Privacy Act Request for the entire internal and external EPA FOIAonline Privacy Act System of records EPA-9 for FOIA/PA Request EPA-2021-000337; and FOIA Appeals EPA-2021-002012 and EPA-2021-002054. Must include everything in FOIAonline internal and external who created the request and appeals, all notes, comment, emails, tasks ... the entire FOIAonline record. Everything associated with this request and appeals contained in FOIAonline Privacy Act System of Records EPA-9. Therefore, EPA system manager Tim Crawford must provide a Privacy Act search of EPA-9 “FOIAonline” for ALL FOIAonline internal and external records for this FOIA request and two FOIA Appeals. The EPA must process this request under both FOIA and Privacy Act. The EPA stated as facts to the Department of Justice (DOJ) in the EPA FOIA Annual report with associated raw data regarding EPA FOIA request including EPA processed all first-party FOIA as both FOIA and Privacy Act requests for greater access to records like many filed by James Chelmowski: g. FOIA Request - a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a "third-party" request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., "firstparty" requests) when those requesters are not subject to the Privacy Act, such as non-U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act "systems of records" or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report.”

EPA has received your request for expedited processing. In your justification, you asserted, “The United States Supreme Court has explained that the, "basic purpose of FOIA is to

ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed." The "FOIA is often explained as a means for citizens to know 'what their Government is up to.'" The Supreme Court stressed that "[t]his phrase should not be dismissed as a convenient formalism." Rather it, "defines a structural necessity in a real democracy." Any FCC delays on producing ALL these FOIA and Privacy Act responsive records should be considered by the active District Court as concealment and obstruction of material facts and evidence for the Requester to brief in active District Court case 17-cv-1394. The Requester is currently working with a public Government Accountability website with details of personal experiences withholding the Government Accountable for their actions to the Public. As US Supreme Court states "an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed". This FOIA request is urgent for the Public to know how the FCC complies with their mandatory duties by Federal law on FCC Public Liaison requests. The Requester will inform the Public of the FCC actions either through a website he creates or through other public pages or publications. The Requester needs these FOIA responsive records for his Due Process in District Court letting the Public and DC. District Court know the facts on how the FCC complies with laws, regs, policy & procedures." Your request for expedited processing must be evaluated as to whether there is an urgency to inform the public about an actual or alleged Federal government activity by a person primarily engaged in disseminating information to the public, and whether a lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual.

Your application does not speak to any urgency to inform the public and it does not speak to any expectation that lack of expedited treatment would pose an imminent threat to the life or physical safety of an individual. Thus, your request does not contain the information required to support a finding that your request meets either of these criteria. Therefore, your request for expedited processing is denied. Your FOIA request will be processed as expeditiously as possible.

You may appeal this determination by email at hq.foia@epa.gov, or by mail to the EPA's National FOIA Office, U.S. EPA, 1200 Pennsylvania Avenue, N.W. (2310A), Washington, DC 20460 or through FOIAonline if you are an account holder. If you are submitting your appeal by hand delivery, courier service, or overnight delivery, you must address your correspondence to 1200 Pennsylvania Avenue, N.W., WJC-N Building, Room 7309C, Washington, DC 20460.

Your appeal must be in writing, and it must be received no later than 90 calendar days from the date of this letter. The Agency will not consider appeals *received* after the 90-calendar-day limit. Appeals received after 5:00 p.m. EST will be considered received the next business day. The appeal letter should include the FOIA tracking number listed above. For quickest possible handling, the subject line of your email, the appeal letter, and its envelope, if applicable, should be marked "Freedom of Information Act Appeal."

If you need any further assistance or would like to discuss any aspect of your request, you may seek assistance from EPA's FOIA Public Liaison at hq.foia@epa.gov or call (202) 566-1667. You may also seek assistance from the Office of Government Information Services

(OGIS). You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001; email: ogis@nara.gov; telephone: (202) 741-5770 or (877) 684-6448; or fax: (202) 741-5769. For all media inquiries, please contact press@epa.gov.

Sincerely,

**GWENDER
DAVIS**

Digitally signed by
GWENDER DAVIS
Date: 2021.03.04
10:23:17 -05'00'

for Nicole M. Rementer
Acting Assistant General Counsel
National FOIA Office



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
GENERAL COUNSEL

April 21, 2021

Mr. James Chelmowski

(b) (6) (b) (6) (b) (6)
(b) (6) (b) (6)

Re: Freedom of Information Act Request No. EPA-2021-001511, Closure for Failure to Provide Fee Assurance.

Dear Mr. Chelmowski,

This letter concerns the above-referenced Freedom of Information Act (FOIA) request, received by the U.S. Environmental Protection Agency (EPA or Agency) on December 18, 2020 and subsequently modified by you on December 18, 2020 in which you requested:

This is both a Privacy Act 5 USC 552a and FOIA Request 5 USC 552. For all Timothy Epp (all email accounts he uses for EPA business) that contained "Chelmowski" (the FOIA and Privacy Act requester's name) in the subject line, email body, attachment, email metadata from January 1, 2017 to the later of the date of this search and December 18, 2020. The emails must include emails that Timothy Epp was the sender, one of the recipients and emails Timothy Epps was copied (cc or bcc) as one of the recipients with the Microsoft Office 365 eDiscovery search Certification and Relativity software certifications and records count. The Search must include the EPA's FOIA centralized search using the Microsoft Office 365 eDiscovery search terms are of course "Chelmowski" to or from all Timothy Epp's email address including but not limited to Epp.Timothy@epa.gov. It is public knowledge that the EPA staff uses multiple email accounts for Federal business (i.e. Federal Records), which are not disclosed to the public. See EPA details of the EPA FOIA Searching procedures and requirements for emails in the attached supporting files 1- EPA's FOIA Procedures 2- EPA's Staff Logs Confirmation of EPA FOIA search procedures using of Microsoft eDiscovery 3 - Microsoft Office 365 - eDiscovery 4 - Microsoft Office 365 - Search for content 5 - Microsoft Office 365 - legal investigation (eDiscovery) 6 - EPA FOIA response letter confirming the EPA uses of Microsoft Office 365 7 - EPA Policy on Mobile and Portable Devices, and Records 8- DOJ Handbook for Agency Annual FOIA Reports DOJ Handbook requirement for Agency include the following: g. FOIA Request .. FOIA requests also include requests made by requesters seeking records concerning themselves

(i.e., "first-party" requests) ... all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act ...and the agency ... to afford the greatest possible access

March 31, 2021 Request for Assurance of Payment

On March 31, 2021 EPA stopped the processing clock for your request and assessed processing fees based on the "commercial" rate. See letter dated March 15, 2021: Fee category for Freedom of Information Act (FOIA) requests: Commercial.

EPA advised that if it does not receive written assurance of payment or a request for additional time within 20 calendar days of the date of this letter—by close of business on Thursday, *April 15, 2021*—**EPA would close your request** for failure to provide the necessary fee assurance.

As of today's date, April 21, 2021, EPA has not received an assurance of payment from you.

EPA has received correspondence from you dated April 20, 2021, indicating that you have filed an "an Appeal with the EPA for seven argument in yesterday for EPA-2021-002747 for a closed FOIA request that EPA demanded similar fees." We also received correspondence from you dated April 16, 2021 stating "Chelmowski will reply to this letter after the EPA provides the EPA Appeal decision EPA-2021-2747 on or before May 13, 2021." You are also apparently demanding 21 days to then review the appeal decision in EPA-2021-002747.

The EPA has considered your correspondence. Asking EPA to wait for your answer contingent upon the result of a separate and independent administrative FOIA process is not reasonable.

Therefore, **we are issuing a final determination and closing your request.** If you would like to resubmit your Freedom of Information Act request, please refer to the instructions available on EPA's FOIA website at: <https://www.epa.gov/foia>. This letter concludes our response to your request.

You may appeal this determination by email at hq.foia@epa.gov, or by mail to the EPA's National FOIA Office, U.S. EPA, 1200 Pennsylvania Avenue, N.W. (2310A), Washington, DC 20460 or through FOIAonline if you are an account holder. If you are submitting your appeal by hand delivery, courier service, or overnight delivery, you must address your correspondence to 1200 Pennsylvania Avenue, N.W., WJC-N Building, Room 7309C, Washington, DC 20460.

Additionally, you may seek assistance from EPA's FOIA Public Liaison at hq.foia@epa.gov or (202) 566-1667, or from the Office of Government Information Services (OGIS). You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, MD 20740-6001; email, ogis@nara.gov; telephone, (202) 741-5770 or (877) 684-6448; or fax, (202) 741-5769.

If you wish to request information connected to this request in the future, please reference the FOIA request number.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Epp", with a red checkmark to its right.

Digitally signed by
TIMOTHY EPP
Date: 2021.04.21
16:01:48 -04'00'

Timothy R. Epp
Associate General Counsel



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

April 23, 2021

OFFICE OF GENERAL
COUNSEL

Mr. James Chelmowski

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RE: Freedom of Information Act Appeal No. EPA-2021-003847 (Request No. EPA-2021-001511)

Dear Mr. Chelmowski,

This letter concerns the above-referenced Freedom of Information Act (FOIA) appeal and associated FOIA request. The U.S. Environmental Protection Agency (EPA or the Agency) received notice on, or about, April 21, 2021 that the "Basis for Appeal" had been modified for Appeal No. EPA-2021-003847. The modified description stated, as follows:

This is a Forgery Appeal apparently filed by the EPA - Not filed by James Chelmowski. Chelmowski will be requesting a full investigation for this Fraudulent Appeal #EPA-2021-003847 with the EPA Inspector General.

The Factual Appeal is EPA-2021-003738 see Factual arguments below:

Full Appeal is attached with the following 7 arguments the EPA must decide
Argument 1 – The EPA cannot deny Chelmowski's rights to FOIA and Privacy Act because the responsive records could expose corruption in the EPA.

Argument 2 – The EPA cannot use Excessive Fees to Discourage Request.

Argument 3 - A requester that uses a cell phone without a home phone number is not a Commercial Requester.

Argument 4 – The EPA's FOIAonline sign up does not state to provide a home address or what type of address to enter and receive correspondence from the Agency pursuant FOIA and Privacy Act. If the requester does not provide their home address the Agency treats the request as Commercial Requester for First-Party requests regarding himself so the EPA can conceal their federal records which could prove EPA corruption.

Argument 5 – The EPA identified Chelmowski occupation was in the Mortgage industry, How are these EPA responsive records are being used commercially in the Mortgage industry to help Chelmowski obtain more mortgages? So the EPA can conceal first-party records in the EPA Privacy Act system of records that would expose EPA corruption.

Argument 6 – The EPA must comply OMB Fee Guidelines including using the Privacy Act fee schedule for requests for First-Party Requests.

Argument 7 – The EPA repeatedly told the Attorney General and the Department of Justice that the EPA processes it's First-Party requests as

both FOIA and Privacy Act to provide the greatest access of records in the EPA definition of FOIA requests.

For background, EPA entered Appeal No. EPA-2021-003847 based on your April 16, 2021 (11:05 AM) email pertained to Request No. EPA-2021-001511, in which you referenced a pending and separate appeal matter before the Agency (Appeal No. EPA-2021-003738).

We appreciate you contacting the Agency to clarify that you had not intended your April 16, 2021 communication to be an appeal of Request No. EPA-2021-001511. Because EPA misunderstood your communication as an intent to appeal Request No. EPA-2021-001511 accordingly, Appeal No. EPA-2021-003847 was entered in error, and EPA now has closed Appeal No. EPA-2021-003847.

The closure of Appeal No. EPA-2021-003847 does not impact your appeal rights pertaining to Request No. EPA-2021-001511, which the Agency closed on April 21, 2021. If you intend to exercise your right to appeal the disposition in Request No. EPA-2021-001511, please follow EPA's appeal procedures. Specifically, you may appeal the determination by email at hq.foia@epa.gov, or by mail to the EPA's National FOIA Office, U.S. EPA, 1200 Pennsylvania Avenue, N.W. (2310A), Washington, DC 20460 or through FOIAonline if you are an account holder. If you are submitting your appeal by hand delivery, courier service, or overnight delivery, you must address your correspondence to 1200 Pennsylvania Avenue, N.W., WJC-N Building, Room 7309C, Washington, DC 20460.

Your appeal must be in writing, and it must be received no later than 90 calendar days from the date of this letter. The Agency will not consider appeals received after the 90-calendar-day limit. Appeals received after 5:00 p.m. EST will be considered received the next business day. The appeal letter should include the FOIA tracking number listed above. For quickest possible handling, the subject line of your email, the appeal letter, and its envelope, if applicable, should be marked "Freedom of Information Act Appeal."

If you need any further assistance or would like to discuss any aspect of your request, you may seek assistance from EPA's FOIA Public Liaison at hq.foia@epa.gov or call (202) 566-1667. You may also seek assistance from the Office of Government Information Services (OGIS). You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001; email: ogis@nara.gov; telephone: (202) 741-5770 or (877) 684-6448; or fax: (202) 741-5769. For all media inquiries, please contact press@epa.gov.

Cordially,



Digitally signed by
TIMOTHY EPP
Date: 2021.04.23
10:06:02 -04'00'

Timothy R. Epp
Associate General Counsel
National FOIA Office